आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./**ITA No.1857/Chny/2026**
निर्धारण वर्ष **/** Assessment Year: 2023-24

The Deputy Commissioner of Income-tax Central Circle 2(1) (i/c) Chennai.	vs.	**Ivar Estates Private Limited** No.3, Mangesh Street T Nagar Chennai – 600 017.
(अपीलार्थी/Appellant)		**[PAN: AAGCI4159M]** (प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. Shivanand K.Kalakeri, CIT
प्रत्यर्थी की ओर से/Respondent by : Shri. R.Venkataraman, CA

सुनवाई की तारीख/Date of Hearing : 05.08.2026
घोषणा की तारीख/Date of Pronouncement : 18.08.2026

आदेश /O R D E R

PER S.R. RAGHUNATHA, AM :

The present appeal filed by the Revenue is directed against the order dated 29.01.2026 passed by the Learned Commissioner of Income Tax (Appeals)-19, Chennai [hereinafter referred to as "the Ld.CIT(A)"], arising out of the assessment order dated 27.03.2025 passed by the Deputy Commissioner of Income Tax, Central Circle-2(1), Chennai [hereinafter referred to as "the AO"] u/s.143(3) of the Income-tax Act, 1961 [hereinafter referred to as "the Act"], for the Assessment Year 2023-24.

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

1. The order of the learned Commissioner of Income Tax (Appeals) is erroneous on facts of the case and in law.

2. On facts and in law, the learned CIT(A) erred in deleting the addition of ₹1,76,09,243/- made on account of unaccounted cash receipts from flat sales, without properly appreciating the evidences gathered during the course of search and post-search enquiries.

3. The learned CIT(A) failed to appreciate that the "median rate" method adopted by the Assessing Officer was based on surrounding circumstances, market realities, and corroborative material.

4. The learned CIT(A) erred in holding that WhatsApp chats are inadmissible evidence for want of certificate u/s 65B of the Indian Evidence Act, without appreciating that such material can be used as corroborative evidence in income-tax proceedings.

5. The learned CIT(A) erred in ignoring the evidentiary value of statements recorded during search, merely on the ground of subsequent retraction, without appreciating that such retractions were not supported by credible evidence.

6. The learned CIT(A) erred in deleting the addition of ₹18,87,00,000/- made towards unexplained cash payment for purchase of Vadapalani land, without appreciating that the seized material and surrounding circumstances clearly indicated payment over and above the registered value.

7. The learned CIT(A) failed to appreciate that the presumption u/s 132(4A)/292C is applicable to seized material and erred in disregarding the contents of the seized notebook merely because it was found from a third party.

8. The learned CIT(A) erred in holding that provisions of section 69A were not applicable, ignoring the fact that unexplained investments/payments can be inferred from surrounding facts and seized materials.

9. The order of the learned CIT(A) is erroneous and contrary to the facts and provisions of law, and therefore the order of the Assessing Officer deserves to be restored.

10. The Ld. CIT(A) erred in granting relief to the assessee by holding that seized material obtained during the course of search does not have evidentiary value by not taking cognisance of the legal presumptions bestowed u/s 132(4A) and sec. 292C of the Act.

11. The Ld. CIT(A) erred in granting relief to the assessee by holding that seized material obtained during the course of search does not have evidentiary value in variance with the law enunciated by the Hon'ble Division Bench of the High Court of Madras in T.C.A. Nos. 1395 to 1401 of 2009, Smt. N. Saroja v. The Assistant Commissioner of Income Tax, Central Circle-II, Tiruchirappalli. Vide its order dated 18.03.2026 has held that the legal presumption u/s 132(4A) is in favour of Revenue and the onus lies on assessee to rebut it with supporting corroborative evidences.

12. For these grounds and any other ground, including amendment of grounds that may be raised during the course of the appeal proceedings, the *order of learned CIT(Appeals) may be set aside and that of the Assessing Officer be restored.*

3. The brief facts of the case as emanating from the records are that the assessee, is a company belonging to the Appaswamy Group and is engaged in the business of real estate development, including construction and sale of residential apartments. For the assessment year 2023-24, the assessee filed its return of income on 31.10.2023 declaring a total income of Rs.55,10,63,550/.

4. A search and seizure action u/s.132 of the Act was carried out on 03.11.2023 in the case of M/s. Appaswamy Real Estates Limited and other entities/persons belonging to the Appaswamy Group. During the course of the search at the corporate office and other premises of the group, various electronic devices, loose sheets, books of account and other documents were found and seized.

5. During the course of search, mobile phones belonging to certain sales personnel were examined. The search party noticed certain WhatsApp conversations between the sales personnel and prospective/existing customers. According to the Revenue, the said conversations indicated negotiations regarding payment of a portion of the sale consideration in cash, over and above the consideration recorded in the books of account. Similar conversations were stated to have been found in the mobile phone of another sales manager.

6. The search party also relied upon certain loose sheets containing particulars such as unit numbers, "actual price", "final price", car parking charges and other details. On the basis of the difference between the figures appearing therein, the Revenue inferred that the consideration actually agreed with certain customers was higher than the consideration ultimately recorded in the books of account.

7. In the course of search proceedings, statements u/s.132(4) of the Act were recorded from various employees and officials of the group, including sales managers and personnel connected with the ERP system. Certain employees stated that cash was collected from customers in connection with sale of apartments and that the corresponding sale consideration appearing in the ERP/CRM software, namely, Build Super Fast ("BSF"), was thereafter reduced to the extent of the alleged cash component.

8. The case of the Revenue, based upon such statements, was that a discount up to about 5% was ordinarily permissible in the normal course of business and that any post-booking reduction in price beyond such percentage represented cash allegedly received outside the books of account. It was further stated by certain employees that post-booking alterations in the ERP system were made pursuant to instructions received from senior officials/management.

9. The implementation consultant of the software vendor was also examined during the course of search. He stated that the BSF software technically permitted modification of the sale price even after booking of an apartment. Statements were also recorded from the AGM (Systems), Vice President (Sales) and certain other senior officials. The Revenue relied upon these statements to support its inference that the prices originally entered in the ERP system were capable of being subsequently altered.

10. Consequent to the search, the return filed by the assessee for the impugned assessment year was selected for compulsory scrutiny and notice u/s.143(2) of the Act was issued on 28.06.2024. This was followed by statutory notice u/s.142(1) of the Act on 04.10.2024, in response to which the assessee furnished the details and explanations called for by the AO, inter alia, on 10.12.2024.

11. During the assessment proceedings, the AO, relying upon the WhatsApp conversations, loose sheets, data extracted from the ERP system and

statements recorded during search, proceeded on the premise that entities of the Appaswamy Group had been collecting a part of the consideration for sale of apartments in cash and thereafter reducing the recorded sale price in the ERP system.

12. For quantifying the alleged unaccounted receipts, the AO adopted a methodology whereby the rates appearing in the master price sheets and/or what was considered to be the actual or median sale rate were compared with the final rates appearing in the ERP system. After allowing a standard discount of 5%, the balance difference was treated as representing alleged cash receipts. On this basis, the Revenue worked out aggregate alleged unaccounted cash receipts of Rs.31,43,48,171/- for the period covering assessment years 2016-17 to 2023-24, out of which a sum of Rs.1,76,09,243/- was attributed to the assessee for the assessment year 2023-24.

13. The AO accordingly issued a show-cause notice dated 19.12.2024, proposing to bring the aforesaid sum of Rs.1,76,09,243/- to tax as undisclosed/unaccounted income of the assessee.

14. In response, the assessee categorically denied having received any unaccounted consideration in cash. It was submitted that the quantification made by the AO rested entirely upon assumptions, presumptions and estimates and that the WhatsApp conversations relied upon by the Department did not establish actual payment or receipt of any cash consideration.

15. The assessee further explained that variations in the sale prices of apartments were attributable to several commercial factors, including negotiated discounts, location and orientation of the units, stage of construction, bulk bookings, market conditions, commercial expediency and other customer-specific considerations. It was contended that there could be no uniform presumption that every reduction exceeding 5% represented receipt of cash outside the books.

16. It was also specifically contended that no material evidencing actual payment of cash by any identified customer to the assessee was found during the course of search. The assessee further disputed the evidentiary value of the statements recorded from the employees and submitted that such statements had been obtained under coercion and duress and were subsequently retracted by the concerned persons through affidavits.

17. The AO, however, did not accept the retractions on the ground that no contemporaneous or cogent evidence had been produced to substantiate the allegation of coercion or duress. According to the AO, the statements had been recorded after confronting the concerned persons with the materials found during search and the similarity in the statements was attributable to the common modus operandi allegedly followed by the sales personnel.

18. The AO further observed that the absence of seizure of physical cash, jewellery or any corresponding asset would not, by itself, disprove the allegation of unaccounted cash receipts when, according to him, the inference was supported by electronic data, internal records and statements recorded during search. The methodology adopted for quantification was also considered by the AO to be reasonable.

19. The AO consequently concluded that the assessee had received consideration in cash outside its regular books in connection with sale of flats and accordingly made an addition of Rs.1,76,09,243/- as unaccounted business income from sale of flats for the assessment year under consideration.

20. Further, in the course of the search proceedings in the Appaswamy Group, the residential premises of one Shri A. Gunasekaran were also subjected to search. During the search, a red, black and white coloured notebook was found and seized and inventorised as Annexure ANN/SA/AGS/B&D/S.

21. Page No.17 of the said notebook contained certain handwritten notings stated to have been made by Shri A.Gunasekaran in relation to sale of a parcel of land situated at Vadapalani to the assessee, M/s.IVAR Estates Private Limited, pursuant to a registered sale deed dated 17.03.2023.

22. The seized noting contained the expression "14.5 × 3.70 = 53.65", which was interpreted by the Revenue as representing 14.5 grounds of land valued at Rs.3.70 crore per ground, aggregating to Rs.53.65 crore. The same noting contained further figures under the descriptions "Cheque" and "Cash". The Revenue interpreted these figures as representing Rs.23.63 crore by cheque, Rs.18.87 crore in cash and a further balance amount of Rs.11.15 crore.

23. An image of the aforesaid handwritten noting was also stated to have been found stored in the mobile phone of Shri A. Gunasekaran and was imaged during the search and inventorised under Annexure ANN/SA/AGS/ED/S.

24. A statement u/s.132(4) of the Act was recorded from Shri A. Gunasekaran on 06.11.2023. He acknowledged that the handwritten notings were made by him and that they related to the proposed/actual transaction of sale of land to the assessee at the rate of Rs.3.70 crore per ground. He also referred to receipt of certain amounts through banking channels. Insofar as the figure of Rs.18.87 crore appearing against cash was concerned, his statement, as understood by the assessee, was that the said amount represented an amount which he expected to receive and not cash actually received by him.

25. The Revenue noticed that an amount of Rs.23.63 crore, forming part of the cheque entries in the seized notebook, corresponded with payments made through banking channels and was stated to be corroborated by the registered sale deed bearing Document No.2249 of 2023 dated 17.03.2023 and the relevant bank statements.

26. Relying principally upon the seized notebook, the electronic image thereof, the statement of Shri A.Gunasekaran and the correlation of certain cheque entries with banking transactions, the AO inferred that the figure of Rs.18.87 crore appearing against "cash" also represented actual cash consideration paid by the assessee in connection with acquisition of the Vadapalani property.

27. The AO accordingly issued a show-cause notice dated 19.12.2024 proposing to treat the sum of Rs.18,87,00,000/- as unexplained investment u/s.69 of the Act in the hands of the assessee.

28. The assessee denied having paid any amount in cash towards acquisition of the property. It was submitted that the consideration agreed and paid by the assessee was duly accounted for and discharged through banking channels and that no cash payment whatsoever had been made to Shri A. Gunasekaran or to any other person in connection with the transaction.

29. The assessee further contended that the seized notebook was a third-party document, neither found nor seized from the premises of the assessee, and that the handwritten notings therein, insofar as they purported to refer to cash, were not supported by any independent or corroborative evidence of actual payment by the assessee. It was submitted that no corresponding cash, document, ledger, voucher, acknowledgement or other incriminating material evidencing payment of Rs.18.87 crore was found during the simultaneous search of the assessee/group premises.

30. The assessee also relied upon the statement of Shri A.Gunasekaran himself to contend that the cash figure represented only an expectation and not an amount actually received. It was further contended that the presumption, if any, arising u/s.132(4A) of the Act in respect of the seized notebook operated against the person from whose possession and control the document was found and could not, without independent corroboration, be automatically extended

against the assessee. The assessee also objected that no effective opportunity to cross-examine Shri A. Gunasekaran had been afforded before using his statement and the document found from his possession adversely against the assessee.

31. The AO rejected the explanation of the assessee. According to him, the notebook was a contemporaneous record maintained by Shri A. Gunasekaran and the fact that the cheque entries appearing therein substantially corresponded with the banking transactions lent credibility to the remaining entries, including the alleged cash component.

32. The AO further held that the explanation offered in the statement of Shri A. Gunasekaran did not satisfactorily account for the detailed bifurcation of the amounts appearing in the notebook. The judicial precedents relied upon by the assessee in relation to third-party documents and loose sheets were held to be distinguishable on facts.

33. On the aforesaid reasoning, the AO concluded that the assessee had paid Rs.18,87,00,000/- in cash, over and above the accounted consideration, towards purchase of the Vadapalani property and that the source thereof remained unexplained. The said amount was, therefore, brought to tax as unexplained investment u/s.69 of the Act.

34. The AO, after making the aforesaid additions of Rs.1,76,09,243/- towards alleged unaccounted business receipts from sale of flats and Rs.18,87,00,000/- u/s.69 of the Act towards alleged cash consideration paid for acquisition of the Vadapalani property, completed the impugned assessment u/s.143(3) of the Act vide order dated 27.03.2025. Consequently, as against the returned income of Rs.55,10,63,550/-, the AO determined the total income of the assessee at Rs.75,73,72,793/- for the A.Y.2023-24.

35. Aggrieved by the additions so made and the findings recorded by the AO, the assessee carried the matter in appeal before the Ld.CIT(A).

36. The assessee, in the course of the first appellate proceedings, assailed the additions aggregating to Rs.20,63,09,243/- made by the AO. The assessee before the Ld.CIT(A) contended that the additions aggregating to Rs.20,63,09,243/- had been made without any reliable, incriminating or corroborative material and were founded substantially upon assumptions, estimates, extrapolations and interpretations unsupported by any independent evidence.

37. It was submitted that, during the assessment proceedings, the assessee had furnished detailed explanations and documentary evidence, including retraction affidavits and project-wise clarifications. However, according to the assessee, the AO failed to properly appreciate the same and proceeded to place reliance upon loose sheets, statements subsequently retracted by the concerned persons and assumed selling prices.

38. The assessee emphasized that, notwithstanding an extensive search conducted for about five days covering the business premises of the group as well as the residences of its directors and employees, no undisclosed cash, unexplained investment, unaccounted expenditure, parallel books of account or other incriminating material evidencing receipt of unaccounted consideration from purchasers of flats was found. It was further pointed out that the regular books of account maintained by the assessee had not been rejected by the Assessing Officer.

39. The assessee challenged the addition of Rs.1,76,09,243/- representing alleged unaccounted cash receipts from sale of flats. It was contended that the said addition did not emanate from any material found or seized during the course of search but was arrived at by adopting an artificial pricing methodology evolved by the Investigation Wing.

40. According to the assessee, the Department worked out a so-called "median rate per sq. ft." from the ERP data and treated such median rate as the actual selling price of the flats. Wherever the actual sale consideration recorded in the books, registered sale deeds and customer agreements was lower than the assumed median rate, the differential amount was presumed to represent cash consideration received outside the books.

41. The assessee submitted that such "median rate" was neither found nor seized during the search nor reflected in any contemporaneous document maintained by the assessee. It was merely a post-search computational exercise undertaken by the Investigation Wing by utilizing the assessee's own ERP data. No purchaser was examined to establish payment of consideration over and above the registered consideration and no receipt, ledger, diary, parallel account or other evidence showing receipt of cash was found.

42. The assessee further submitted that the Investigation Wing, by adopting the aforesaid methodology, quantified alleged cash receipts of Rs.102,04,27,807/- in respect of eight projects of various group entities spread over different assessment years. The assessee contended that the entire quantification was based upon estimates and not upon any seized document evidencing receipt of cash.

43. The assessee explained before the Ld.CIT(A) that the preliminary list price or target price reflected in the ERP was merely an indicative price intended for preliminary customer communication and internal MIS purposes and could not be equated with the actual negotiated selling price.

44. It was submitted that sale prices in the real estate business necessarily varied depending upon several commercial considerations such as the stage of construction, date of booking, prevailing market conditions, floor and orientation of the apartment, payment schedule, bulk bookings, repeat customers, early-

bird concessions, festival discounts, referral benefits, upfront payments and the working-capital requirements of the developer.

45. The assessee therefore contended that merely because one flat was sold at a rate lower than another flat, or below an indicative ERP/list price, no inference could legally be drawn that the differential amount had been received in cash. By way of illustration, the assessee referred to the "Altezza" project, where flats booked simultaneously by Shri Vinu Thomas and his relatives were sold at negotiated prices. By comparing such negotiated rates with a notional median rate, the Department estimated alleged cash receipts aggregating to Rs.50,52,150/- in respect of five flats. It was submitted that there was no incriminating material whatsoever evidencing receipt of such amount in cash and that the difference represented nothing more than commercially negotiated pricing.

46. The assessee further submitted that the AO had accepted the regular books of account and had not invoked any provision for rejection thereof. No defect had been pointed out in the method of accounting or in the recording of sales. The sale transactions were supported by agreements, registered sale deeds, receipts, bank transactions and ERP records. It was therefore contended that, having accepted the books of account, the AO could not indirectly disregard the recorded sale consideration and substitute the same with a hypothetical or estimated consideration computed on the basis of an assumed median rate. The assessee contended that, in the absence of rejection of the books and in the absence of evidence of suppressed receipts, the substitution of documented sale consideration by an estimated "actual selling price" was contrary to settled principles governing assessment of business income.

47. The assessee extensively challenged the reliance placed upon loose sheets stated to have been seized from the residence of Shri R. Swaminathan, Vice-President–CRM, and upon his statement recorded u/s.132(4) of the Act. It

was submitted that the search at the residence of Shri R. Swaminathan continued for several days and that no books of account, ERP data, customer files or other company records were maintained or found at his residence. Particular reliance was placed upon his answer to Question No. 9 of the sworn statement, wherein he categorically stated that no books of account relating to the Appaswamy group were maintained at his residence and that the books were maintained by the accounts department at the corporate office. Notwithstanding the above, on the last day of the search, certain "Buyer Abstract Analysis" sheets relating to the projects "Azure The Oceanic" and "Clover by the River" were stated to have been produced by Shri R. Swaminathan and seized as ANN/KA/RS/LS-1 and ANN/KA/RS/LS-2.

48. The assessee's specific case before the Ld.CIT(A) was that these documents were not prepared by Shri R. Swaminathan and were not found at his residence. According to the assessee, the printouts were brought by the search officials and Shri Swaminathan was made to put handwritten notings thereon and to state that the workings had been prepared from data available at his residence. The assessee highlighted the inherent contradiction between the answer to Question No. 9, wherein Shri Swaminathan categorically denied the availability of any books or company records at his residence, and the subsequent answers wherein he was made to state that detailed customer-wise workings had been prepared from data available at his residence. It was contended that detailed buyer abstracts containing customer names, unit numbers, areas, booking dates, rates and other particulars could not possibly have been prepared from memory without access to ERP data or primary company records.

49. The assessee submitted that Shri R.Swaminathan, immediately upon receiving a copy of his statement on 24.11.2023, filed a detailed retraction by e-mail on 08.12.2023 and thereafter an affidavit dated 18.12.2023 explaining the circumstances in which his statement had been recorded. Similar retractions were stated to have been filed by other employees, namely Shri Vijay Shyam,

Shri Sovik Sarkar and Shri P. Muthukumar, upon receipt of copies of their statements.

50. It was further pointed out that portions of the statements of different employees, though recorded separately at different places by different officers, contained strikingly similar and substantially identical language. According to the assessee, such uniformity itself demonstrated that the answers were not spontaneous statements of the employees but had been dictated or influenced during the search. The assessee contended that the AO rejected the retractions merely by observing that coercion had not been established, without examining the deponents, confronting them with their retractions or bringing any independent evidence on record to disprove the contents of the affidavits. Reliance was placed, inter alia, upon Mehta Parikh & Co. v. ITO (1956) 30 ITR 181 (SC) and Daulat Ram Rawatmull v. CIT (1973) 87 ITR 349 (SC) in support of the proposition that affidavits could not simply be discarded without examination of the deponents or contrary evidence.

51. The assessee further contended before the Ld.CIT(A) that the statements recorded during search, particularly when subsequently retracted, could not constitute the sole basis for an addition in the absence of independent incriminating material. Reliance was placed upon CBDT Instruction F.No.286/2/2003-IT(Inv.II) dated 10.03.2003, whereby the Department had cautioned against obtaining confessions during search proceedings and emphasized that assessments should be based upon credible evidence collected during search. The assessee also relied upon, inter alia, Pullangode Rubber Produce Co. Ltd. v. State of Kerala(1973) 91 ITR 18 (SC), CIT v. S.Khader Khan Son (2008) 300 ITR 157 (Mad.), affirmed by the Supreme Court, and CIT v. Smt. S.Jayalakshmi Ammal [2016] 74 taxmann.com 35 (Madras), to contend that an admission was not conclusive and that an addition could not be sustained merely upon an uncorroborated statement.

52. The assessee also disputed the reliance placed upon certain WhatsApp conversations retrieved from the mobile phones of sales personnel. It was contended that the messages did not evidence any actual payment or receipt of cash. At best, according to the assessee, they represented enquiries from prospective customers as to whether a cash component was permissible, and the concerned employees had merely indicated that they had no authority in that regard. It was emphasized that no message recorded an actual arrangement, demand, collection, acknowledgment or utilization of cash. The assessee further questioned the evidentiary value of the electronic material on the ground that it was not duly authenticated/certified and was not corroborated by any independent evidence. Reliance was placed upon various decisions, including A. Johnkumar v. DCIT, ACIT v. Manchukonda Shyam, Atul Tantia v. DCIT, Designers Points v. ACIT and ACIT v. Jayant Hiralal Shah, for the proposition that uncorroborated electronic messages/WhatsApp chats could not, by themselves, justify an addition.

53. The assessee contended that even assuming, without admitting, that some material existed in relation to particular transactions, the same could not legally be extrapolated to all flats, projects and assessment years in the absence of transaction-specific incriminating evidence. It was submitted that the Revenue was required to establish actual receipt of on-money through cogent evidence and could not substitute proof with mathematical extrapolation or comparison of sale rates. Reliance was placed upon Fort Projects (P.) Ltd. v. DCIT [2013] 29 taxmann.com 84 (Kol. Trib.), D.N.Kamani HUF v. DCIT [1999] 70 ITD 77, Mani Square Ltd. v. ACIT [2020] 118 taxmann.com 452 (Kol. Trib.), Meenamani Ganga Builder LLP v. ACIT and DCIT v. Heaven Associates [2023] 154 taxmann.com 595 (Ahd. Trib.). According to the assessee, these authorities supported the proposition that alleged on-money could not be extrapolated across other transactions merely upon presumption and that negotiated sale consideration evidenced by regular documentation could not be displaced without tangible evidence of additional consideration.

54. With regard to the separate addition of Rs.18,87,00,000/- u/s.69A of the Act, the assessee submitted that the addition was founded exclusively upon an undated and unsigned loose sheet recovered from the residence of a third-party land vendor, Shri A. Gunasekaran, and not upon any material found from the assessee. The assessee had purchased land at Vadapalani from Shri A.Gunasekaran and his wife in March 2023. The transaction was recorded in the books at Rs.35.52 crore, including stamp duties, and, according to the assessee, the entire consideration was paid through normal banking channels and was supported by the registered sale deed and bank statements.

55. It was specifically submitted that, despite simultaneous searches upon the assessee group and the vendor, no material evidencing payment of Rs.18.87 crore in cash was recovered from any premises of the assessee. Neither the Managing Director nor any employee of the assessee was questioned during the search regarding such alleged payment, nor was any post-search enquiry undertaken in this regard.

56. The assessee placed considerable reliance upon the sworn statement of Shri A.Gunasekaran recorded on 06.11.2023. It was pointed out that, in response to Questions Nos.33 and 34, the vendor himself had explained that the amount mentioned under the expression "cash" in the loose sheet represented only his expectation and that no cash had actually been received from the assessee. He confirmed receipt of Rs.23.63 crore by cheque from the assessee company towards his share of the land. The assessee therefore contended that the very person from whose premises the document was seized had denied receipt of cash and explained the nature of the notation. In such circumstances, the AO could not disregard the maker's explanation and attribute a contrary meaning to the loose sheet without bringing any corroborative material on record.

57. The assessee further contended before the Ld.CIT(A) that an unsigned and undated loose sheet found from a third party, unsupported by any

corresponding evidence in the assessee's books or premises, could not constitute substantive evidence against the assessee. Reliance was placed upon Common Cause (A Registered Society) v. Union of India (2017) 394 ITR 220 (SC) and CBI v. V.C. Shukla for the proposition that random entries or loose papers not maintained in the regular course of business cannot fasten liability upon another person in the absence of independent corroboration.

58. The assessee further contended that the statutory presumption in respect of seized documents operates, if at all, against the person from whose possession the document was found and could not automatically be extended against a third party. Reliance was also placed upon M.M. Financers (P.) Ltd. v. DCIT [2007] 107 TTJ (Chennai) 200, Regency Mahavir Properties v. ACIT [2018] 89 taxmann.com 444 (Mumbai-Trib.) and other decisions holding that third-party loose papers and statements, in the absence of corroboration, could not constitute the basis of an addition.

59. The assessee specifically relied upon the judgment of the Hon'ble Madras High Court in CIT v. P.V. Kalyanasundaram (2006) 282 ITR 259 (Mad.), subsequently affirmed by the Hon'ble Supreme Court in 294 ITR 49. It was submitted that the said decision squarely supported the assessee's case since an addition towards alleged unaccounted consideration for purchase of immovable property could not be sustained merely upon a vendor's statement without an independent enquiry by the AO. The assessee emphasized that its case stood on an even stronger footing because Shri A. Gunasekaran had himself denied receipt of any cash from the assessee.

60. The assessee further submitted that, in its response to the show-cause notice, it had specifically sought an opportunity to cross-examine Shri A. Gunasekaran in the event the AO proposed to draw any adverse inference from his statement or the document recovered from his premises. No such opportunity was afforded. It was contended that reliance upon third-party material without affording an effective opportunity of cross-examination

constituted violation of the principles of natural justice. Reliance was placed, inter alia, upon Andaman Timber Industries v. CCE, Kishanchand Chellaram v. CIT (1980) 125 ITR 713 (SC) and the other authorities cited in the written submissions.

61. Without prejudice to the factual challenge to the alleged cash payment, the assessee further contended that the essential jurisdictional conditions for invoking section 69A of the Act were absent. It was submitted that no money, bullion, jewellery or other valuable article was found in the ownership or possession of the assessee which was not recorded in its books of account. The addition represented merely an alleged cash payment inferred by the AO from a third-party loose sheet. Accordingly, it was contended that section 69A of the Act could not be invoked to tax an assumed expenditure/payment when the assessee had not been found to be the owner of any unexplained money or valuable article. On this independent ground also, the assessee sought deletion of the addition of Rs.18.87 crore.

62. On the cumulative factual and legal grounds set out above, the assessee submitted before the Ld.CIT(A) that neither the addition of Rs.1,76,09,243/- towards alleged unaccounted receipts from sale of flats nor the addition of Rs.18,87,00,000/- u/s.69/69A of the Act was supported by legally admissible or corroborative evidence. It was therefore prayed before the ld.CIT(A) that the additions made merely on the basis of assumptions, estimated/median sale rates, retracted statements, uncorroborated electronic material and a third-party loose sheet be deleted in their entirety.

63. Upon due consideration of the submissions made by the assessee and the material available on record, the Ld.CIT(A), vide the impugned appellate order dated 29.01.2026, deleted the additions made by the AO on account of (i) alleged undisclosed income arising from the sale of flats, and (ii) alleged on-money payment made towards the purchase of land, which had been brought to tax u/s.69/69A of the Act. While granting the aforesaid relief to the assessee,

the Ld.CIT(A) recorded his findings and observations, the relevant portion of which is reproduced hereunder:

> "***6.2.18*** *The undersigned notes that addition made by the AO towards alleged receipt of unaccounted cash is not supported by any incriminating material placed on record during the course of assessment proceedings. While a search was conducted covering the appellant's business premises, project sites and the residences of directors and employees, the assessment order does not identify or rely upon any seized material which directly evidences actual receipt of cash over and above the consideration recorded in the regular books of account. This factual position emerges clearly from a reading of the assessment order and remains undisputed. In the assessment order passed for the year under consideration, the AO has not referred to any seizure of any unaccounted cash, jewellery or other valuable articles representing undisclosed income. There is also no reference to any undisclosed investment, benami asset or unexplained accretion to wealth traceable to the appellant or its key personnel. In cases involving allegations of on-money receipts in real estate transactions, some corresponding evidence of possession or application of such cash would ordinarily be expected. However, no such material has been brought on record by the AO to substantiate the allegation in the present case.*
>
> ***6.2.19*** *Further, the AO has not relied upon any parallel or duplicate books of account, cash ledgers, diaries, registers or electronic data evidencing systematic recording of alleged cash collections. No buyer-wise cash receipts, acknowledgements, side agreements or documents reflecting payment of consideration outside the registered sale deeds have been identified or produced. Importantly, the assessment does not cite even a single instance where a customer has admitted to having paid cash to the appellant, nor has any purchaser been examined or confronted to corroborate the allegation of unaccounted receipts. The material relied upon by the AO primarily consists of internal communications, loose working papers and statements recorded from employees. However, these materials, in the absence of corroboration, do not by themselves establish actual receipt of cash. The assessment order does not demonstrate a direct and proximate nexus between such material and the alleged undisclosed income. There is no linkage shown between the figures referred to in such material and any actual flow of funds, either into the hands of the appellant or towards any unaccounted expenditure or investment.*
>
> ***6.2.20*** *There is no finding that such cash was used for payments to contractors, landowners or suppliers, nor is there any material to show that it was deployed or personal expenditure or investments of the directors. In the absence of evidence regarding both receipt and application of the alleged cash, the addition rests entirely on inference rather than on demonstrable facts. Therefore, it can be inferred that the addition on account of unaccounted cash receipts has been made on the basis of estimations and assumptions drawn, without the support of any incriminating evidence evidencing receipt of cash by the appellant. The undersigned is of the view that such material may give rise to suspicion or prompt further enquiry, it does not, in the absence of corroboration, constitute sufficient proof of undisclosed income. In the present case, the AO, has not brought on record any cogent material to discharge the burden of establishing that the appellant actually received unaccounted cash during the relevant previous*

*year. Therefore, it is held that the addition made is **not based on any seized incriminating material directly evidencing cash receipt**, but on inferences and post-search estimations. Consequently, the addition cannot be sustained merely on the basis of presumptions, inferences or estimates, without independent and credible evidence linking the appellant to actual unaccounted cash receipts.*

***6.2.21** As evident in the assessment order passed, it is observed that the AO has proceeded to make the addition on the premise that the sale consideration disclosed by the appellant in respect of residential flats does not reflect the true consideration and that the flats were, in fact, sold at rates higher than those recorded in the books of account and registered sale deeds. According to the AO, the material gathered during the course of search indicated that the actual selling prices were higher and that the difference between such alleged prices and the disclosed consideration represented unaccounted cash received by the appellant. Proceeding on this assumption, the AO has adopted an estimated "median rate" as the alleged actual selling price and has computed the addition by comparing such rate with the prices recorded by the appellant. In arriving at the said conclusion, the AO has disregarded the primary documentary evidence produced by the appellant, namely the registered sale deeds executed in favour of individual purchasers, the corresponding sale agreements entered into with customers, the contemporaneous entries in the appellant's ERP and accounting systems, and the bank statements evidencing receipt of consideration through banking channels. These documents collectively form a complete and consistent chain of evidence demonstrating the actual consideration received on sale of the flats. The undersigned notes that the assessment order does not record any finding that these documents are fabricated, unreliable or otherwise untrue. There is also no allegation that the consideration mentioned in the registered documents was understated with the consent or connivance of the purchasers.*

***6.2.22** A close reading of the assessment order further reveals that the "median rate" adopted by the AO does not emanate from any seized document evidencing completed transactions at such rate. The AO has not identified any specific document recovered during the course of search which records sale of a flat at the assumed median price. The said rate is neither reflected in the appellant's books of account nor in its ERP system, which records customer-wise and flat-wise sale consideration. The undersigned is of the view that the "median rate" is thus an inferential figure arrived at by the AO by analysing internal communications and working papers, without establishing that such rate was actually realised in any concluded sale transaction.*

***6.2.23** It is also an admitted position that the AO has not rejected the books of account maintained by the appellant. The assessment order does not invoke the provisions of section 145(3) of the Act, nor does it contain any finding that the books are incorrect, incomplete or not in accordance with recognised accounting principles. On the contrary, the assessment accepts the books of account for determining business results, except for the limited purpose of substituting the sale consideration with an estimated figure. Such selective acceptance of books is legally untenable, as the AO cannot simultaneously accept the books as reliable and yet disregard the most fundamental entry therein relating to sale consideration.*

6.2.24 *During the course of appellate proceedings, the AR asserted that the AO has proceeded entirely on an erroneous and unfounded assumption that any target price, benchmark rate, or indicative figure discussed internally among sales personnel must necessarily reflect the actual selling price at which the residential flats were ultimately sold to customers. According to the AR, such an assumption is divorced from commercial prudence and ignores the well-recognized business realities governing the real estate sector. Internal target rates or aspirational price points are, at best, guiding tools for sales teams and cannot be equated with the final negotiated consideration agreed upon with individual buyers. The AR pointed out that the appellant is a large real estate developer dealing in the sale of multiple residential units, and it is an established commercial fact that the selling price of each flat is influenced by a host of variable and dynamic factors. These include, inter alia, the precise location of the flat within the project, the floor on which it is situated, its orientation and ventilation, the view offered, the carpet and built-up area, the stage of construction at the time of booking, the date of sale, prevailing demand-supply conditions in the market, and the bargaining strength and negotiating ability of individual customers. Consequently, uniformity in pricing is neither commercially feasible nor expected, and variations in sale consideration across different units are an inherent feature of the business.*

6.2.25 *It was further submitted that, apart from these project-specific variables, the appellant's pricing decisions were significantly influenced by external macroeconomic factors. The AR specifically drew attention to the market slowdown in the real estate sector and the unprecedented disruption caused by the COVID-19 pandemic, which severely impacted demand, liquidity, and customer sentiment. During this period, developers across the industry were compelled to offer discounts, incentives, and negotiated rates to attract buyers, liquidate inventory, and maintain cash flows necessary for meeting construction and financial commitments. The appellant, being no exception, had to align its pricing strategy with these prevailing market conditions. The AR emphasized that these factual and commercial explanations were duly placed before the AO during the course of assessment proceedings, supported by details of registered sale deeds, booking dates, and comparative pricing across units. However, the AO failed to appreciate these submissions in their proper perspective and instead chose to mechanically rely on internal discussions and estimated rates, without demonstrating as to how such figures translated into actual receipt of unaccounted cash. In doing so, the AO ignored the commercial realities of the business as well as the contemporaneous market conditions, thereby rendering the entire basis of the addition speculative and unsustainable.*

6.2.26 *The undersigned observes that the assessment order does not record any reasoned finding as to why the explanations offered by the appellant during the course of assessment proceedings were not acceptable. There is no analysis to prove that the factors cited by the appellant could not have resulted in variations in sale prices. Instead, the AO has proceeded to apply a uniform or median rate across multiple transactions, thereby overlooking the fact that uniform pricing is alien to the real estate business and that negotiated pricing is the norm rather than the exception. Such an approach results in replacing actual transaction values with a hypothetical benchmark, without any supporting evidence. From the manner in which the assessment has been framed, it is evident that the AO has effectively substituted his own notion of what the selling price of the flats ought to have been, in place of the prices actually realised and duly documented by the appellant. This* *amounts to assessing income on the basis of presumed or idealised pricing rather than on real income that has accrued or been received. At this juncture, it is appropriate to rely upon the decision rendered by the Hon'ble ITAT, Kolkata in the case of* ***Fort Projects P Ltd vs Deputy Commissioner of Income-tax - [2013] 29 taxmann.com 84 (Kolkata - Trib.)*** *wherein the Hon'ble ITAT, Kolkata has held as under.*

> *"the decision to sell a particular flat at a particular price was taken out of commercial expediency and it cannot be questioned by the Department without any tangible evidence. It is for the assessee to decide how to conduct the business. The AO cannot put himself in the armchair of the businessman and judge how business should be conducted or at what price a particular product should be sold".*

Thus, it can be held that it is well settled that the AO cannot sit in the armchair of the businessman and determine the price at which a product should be sold, unless there is clear and cogent evidence of suppression or understatement of consideration.

6.2.27 *On a careful consideration of the entire material on record, the undersigned finds that the addition has been made solely on the basis of an assumed and notional median rate, without reference to any incriminating material evidencing receipt of higher consideration and without rejection of the books of account. The sale consideration recorded by the appellant is supported by statutory documents, contemporaneous accounting records and bank receipts, and no defect has been pointed out therein. In the absence of evidence establishing that the appellant actually received consideration in excess of what is recorded, the substitution of recorded sale prices with an estimated rate is not legally permissible. Therefore, it is held that the action of the AO in adopting an assumed median selling price and computing alleged undisclosed income on that basis is not supported by facts or law. The addition, being founded on notional assumptions rather than on real income and corroborative evidence, is therefore unsustainable in the eyes of law.*

6.2.28…….

6.2.29…….

6.2.30 *The undersigned, after carefully considering the detailed submissions of the AR, the manner in which the AO placed reliance on the statements of the employees, the material available on record, and the judicial precedents cited, finds that the statements in question were recorded during the course of the search proceedings and were immediately retracted, i.e.,* ***within ten days*** *from the date of receipt of copies of the sworn statements, through duly sworn affidavits explaining the circumstances under which such statements were made. The undersigned also finds that neither the Investigation Officer nor the AO has made any attempt to examine the deponents afresh after the retractions were filed instead the AO merely relied on the statements which were retracted subsequently. The undersigned also notes that the AO has not brought on record any independent or corroborative evidence to substantiate the allegations allegedly arising from the statements. There is no material linking any specific customer to any cash payment, nor is there any evidence demonstrating receipt or application of unaccounted funds by the appellant. In the absence of such* *corroboration, and particularly in view of the prompt and categorical retractions, the evidentiary value of the original statements stands substantially weakened.*

6.2.31 *During the course of appellate proceedings, the AR brought to the notice of the undersigned that apart from the specific sworn affidavit(s) filed by the employees from whom statements were recorded including Shri. R Swaminathan (Vice President Sales) and the Managing Director of the appellant Company Shri. Ravi Appasamy had also filed a letter on 28.12.2023 by clarifying the statements recorded from him and other employees of the group. In this clarification letter, he has explained in detail how the statement recorded cannot be relied on. In the case of the appellant company, the search has taken place on 03.11.2023 and the clarification letter was filed on 28.12.2023 within 60 days from the date of initiation of the search. The relevant para(s) of his letter clarifying the matter with respect to alleged cash received from the customers are extracted here as under.*

15. In Q.35 and Q.36 of the sworn statement recorded from me, the authorized officer had shown me a copy of sworn statement recorded from Shri R Swaminathan and also presented a tabulation allegedly prepared by him containing a chart capturing certain amounts as sale consideration received in cash and sought my explanation. Towards this, I requested time to verify the same to provide my explanation. In this respect, I hereby state that we have been selling apartments to various people at different discounts as clearly explained early in this letter, which was on a need based and considering the cash flow requirement and also by taking into account the relationship with old/repeat customers & goodwill base. I further state that wherever the apartments were sold at different prices, they represent only the discounts offered to them and does not represent any cash consideration received for sale of flats. The offer of discounts is resorted to mobilize the cash flows, to speed up the sales, to manage project overheads, payment of interest and repayment of principal to the bankers in time to keep up our reputation. This method of offering discounts is very much prevalent in our industry. I reiterate that we have not accepted any other consideration other than what is stipulated in the respective agreements.

16. I also understand that Shri R Swaminathan had in this respect filed an affidavit which is acknowledged by your office dated 18.12.2023 clarifying various facts about his deposition before your good self and I request you to kindly take the same in to your records.

17. Similarly the other employees namely Mr.P.Muthukumar (acknowledgement dated 18.12.2023), Mr.Vijay Shyam (acknowledgement dated 18.12.2023) Mr.Souvik Sarkar (acknowledgement dated 18.12.2023) who have also filed an affidavit which is acknowledged by your office on dates indicated above clarifying various facts about their deposition before your goodself and I request you to kindly take the same into your records.

6.2.32 *From the above, it is evident that the clarification letter was filed during the course of the search proceedings itself. Neither the Investigation Officer nor the AO took any steps to controvert or rebut the clarification furnished by Shri Ravi Appasamy, and the said clarification letter has not been discussed or even adverted to in the assessment order. It can therefore be reasonably inferred that the clarification was not considered by either the Investigation Officer or the AO while framing the assessment. It is a well-settled principle that a statement recorded during search, when subsequently retracted, cannot by itself form the sole basis of an addition unless it is corroborated by independent and credible evidence. The Hon'ble Apex Court in the case of* ***Kasmira Singh v. State of Madhya Pradesh AIR 1952 SC 159,*** *has observed that the correct way to approach a case of confession is to marshal evidence against the accused excluding the confession altogether from consideration. Where the case can be decided independent of confession, then, it is not necessary to take help of confession. This principle assumes greater importance in search* *assessments, where additions must be rooted in material unearthed during the search and not merely on oral statements.*

***6.2.33** In this regard, reliance is drawn from the decision of the Hon'ble Apex Court in the case of **Mehta Parikh & Co v. ITO (1956)30 ITR 181 (SC)** wherein, it was held that*

> *"once an Affidavit is filed, and if the deponent is neither called for cross examination nor confronted, it is not open to the Revenue to challenge the correctness of the same".*

*The above view was followed in the case of **Daulat Ram Rawatmull v. CIT(1973) 87 ITR 349 (SC)** in which it was held that*

> *"once an affidavit is furnished, it should be presumed to be a correct statement of facts. If these facts are to be controverted, either the deponent must be examined or evidence contrary to facts must be led. In the absence of these the affidavits could not be ignored".*

By applying this settled position of the law to the facts of the present case, the undersigned is of the view that the AO was not justified in placing reliance on retracted employee statements, without further verification and without independent corroboration. In view of the above findings, the undersigned holds that the action of the AO in relying upon the sworn statements of employees, which were subsequently retracted and remained uncorroborated, is not sustainable. Such statements, in the absence of independent supporting evidence and without affording the appellant an opportunity of cross-examination, cannot be used to sustain the addition. Accordingly, the reliance placed on these statements is rejected and the addition founded thereon is unsustainable.

6.2.34…..

6.2.35…..

6.2.36…..

6.2.37…..

***6.2.38** The undersigned after carefully considering the detailed submissions of the AR, examined the nature and contents of the WhatsApp chats and loose electronic records relied upon by the AO, and the assessment order and the judicial precedence(s) relied. The undersigned finds that the AO has relied upon these electronic communications without demonstrating that they record or evidence actual receipt of unaccounted cash. On a plain reading, the chats reflect internal discussions and customer interactions typical of a sales environment and do not establish completed transactions involving cash receipts outside the books of account. More particularly, the AO has not brought on record any independent corroborative evidence to substantiate the inferences drawn from the electronic material. There is no linkage/ nexus revealed between the WhatsApp chats or loose electronic records and any specific sale transaction, customer payment, or flow of unaccounted funds.*

***6.2.39** In view of the above, the undersigned is of the view that the reliance placed by the AO on WhatsApp chats and loose electronic records, without proper authentication and without independent corroboration, is not justified. Such material, in isolation, does not constitute incriminating evidence of receipt of unaccounted cash. Therefore, the addition made relying upon such material is unsustainable.*

6.2.40…….

6.2.41…….

6.2.42…….

6.2.43…….

***6.2.44** The undersigned finds that the AO has computed the alleged unaccounted income by applying an assumed rate or difference uniformly across multiple transactions, without bringing on record any seized material relatable to each such transaction. The assessment order does not set out any factual basis for treating all transactions alike or for presuming that each transaction involved receipt of unaccounted cash. The undersigned is of the view that the computation has been carried out in a mechanical and formulaic manner, without taking into account transaction-specific factors or commercial considerations. The AO has not established any rational nexus between the seized material, (if any), and the transactions to which the extrapolation has been applied. In the absence of such nexus, the extrapolation undertaken lacks evidentiary support and cannot be sustained. The approach adopted by the AO results in quantification of income based on assumptions and guesswork rather than on real income supported by evidence. Such arbitrary extrapolation is not permissible under the scheme of the Act, particularly in the context of a search assessment where additions must be firmly rooted in material unearthed during the search. Therefore, it is held that the quantification of the addition, being based on illogical extrapolation and mechanical application of assumptions without transaction-specific seized material, is unsustainable both on facts and in law.*

In addition, during the course of appellate proceedings, the AR assailed the very
basis of the estimation made by the AO by , contending that the appellant maintains regular and audited books of account in the ordinary course of business, supported by a robust ERP system, registered sale deeds, customer agreements and complete banking records, and that at no point has the AO recorded any dissatisfaction regarding their correctness or completeness or invoked section 145 of the Act. It was specifically contended that no defect has been found in the method of accounting, no discrepancy has been pointed out in quantitative details of flats sold, and no mismatch has been identified between sale agreements, registered sale deeds, ERP records and bank receipts, thereby clearly demonstrating that the books of account were accepted in toto. The AR further submitted that while the AO relied upon the same books for accepting turnover and allowing business expenditure, he selectively disregarded the recorded sale consideration and substituted it with assumed or hypothetical prices, which is legally impermissible as the AO cannot approbate and reprobate without valid reasons. On an objective examination of the record, it is found that the AO has indeed not pointed out any specific defects, yet proceeded to

estimate income by adopting notional selling prices without any cogent legal or factual basis, rendering the addition made on a purely estimated basis legally untenable.

6.2.45 *On a cumulative and holistic consideration of the facts, material on record and the submissions made during the appellate proceedings, it is evident that the addition of Rs.1,76,09,243/- made by the AO towards alleged unaccounted cash receipts from sale of residential flats is based on assumptions and estimates, without support from any incriminating or corroborative evidence. No unaccounted cash, undisclosed investment, parallel books, or customer confirmations were found or brought on record to substantiate the allegation. The addition is founded on sworn statements of employees which were subsequently retracted, or was any independent corroboration obtained. Further, the books of account have been accepted without rejection, and the recorded sale consideration is supported by registered documents, ERP records and bank receipts. The substitution of actual consideration with notional prices and the quantification based on illogical extrapolation are contrary to settled legal principles and commercial realities. Therefore, the addition of Rs.1,76,09,243/- is* ***unsustainable*** *in the eyes of law* ***both on facts and legality.*** *Accordingly, the grounds raised upon this issue are treated as* ***allowed*** *and the AO is directed to* ***delete*** *the addition of Rs. 1,76,09,243/- made for the AY 2023-24.*

6.3.1……

6.3.2…….

6.3.3……

6.3.4……

6.3.5……

6.3.6……

6.3.7 *The undersigned has carefully examined the issue under consideration. As evident in the assessment order passed, it can be seen that the AO has made an addition of Rs.18.87 Crores solely on the basis of a loose sheet seized from the residence of a third party (vendor), namely Shri A. Gunasekaran. On a careful examination of the assessment order, the seized material, and the submissions placed on record, the following aspects clearly emerge:*

- *Document seized from third party – no presumption against appellant.*
- *Vendor's sworn statement negates cash payment.*
- *Entire consideration paid through banking channels*
- *No cross-examination granted.*
- *Section 69A wrongly invoked.*

The above aspects are dealt here as under.

6.3.8…..

6.3.9…..

6.3.10….

6.3.11 *The undersigned finds that the loose sheet relied upon by the AO was admittedly seized from a third party and not from the appellant's premises or possession. Further, the AO has not brought on record any material to establish that the document belonged to the appellant or that it was prepared under its authority or instructions. The scope and applicability of sections 132(4A) and 292C are limited and well defined. The undersigned is of the view that the AO has, in effect, attempted to draw an adverse inference against the appellant by extending the statutory presumption u/s 132(4A) and 292C of the Act to a situation where it does not apply. Such an approach is not supported by the statutory framework, as the presumptions under these provisions are person-specific and cannot be invoked against a third party.*

6.3.12 *It is a well-established legal principle that a loose sheet found and seized from a third-party premises, without any corroborating evidence or material on record, and without a finding that such document has translated into actual transactions resulting in undisclosed income for the appellant, cannot be relied upon for the purpose of assessments made pursuant to a Search and Seizure action. At this juncture, it is appropriate to bring on record the observations of Apex court in the case of* ***K.P. Varghese 131 ITR 597*** *where in it has been held that*

> *"It is a well settled rule of law that the onus of establishing that the conditions of taxability are fulfilled is always on the Revenue. To throw the burden of showing that there is no understatement of the consideration, on the assessee would be to cast an almost impossible burden upon him to establish the negative, namely that he did not receive any consideration beyond that declared by him".*

6.3.13 *Further, that the burden is on the Revenue to prove that the income sought to be taxed is within the taxing provisions and there was in fact income,* ***are propositions*** *which are well settled by the Supreme Court in the case of* ***Parimisetti Seetharamamma v. CIT [1965] 57 ITR 532*** *which reiterates these propositions.*

> *"This is very important burden and must be discharged by revenue strictly. There should not be reverse burden on tax payer to prove the negative".*

Although the burden of proof is not static, in assessment proceedings, especially in search-related cases, the initial onus lies on the appellant. In this case, the appellant has discharged that initial burden by submitting that the seized document neither belonged to the appellant nor that it was prepared under its authority or instructions. Presumptions requiring rebuttal were once drawn, there is no discretion vested in the AO to reject the appellant's claim once this initial burden has been met. As evident in the assessment order, the AO has not chosen to examine the appellant u/s 131 of the Act and cross verify the findings of the search. In the absence of any independent corroborative evidence linking the loose sheet to actual transactions of the appellant, the reliance placed on such a document is legally untenable.

6.3.14 *It may be appreciated that the said loose sheet relied upon by the AO was neither seized from the premises of the Appellant nor was the same* *found to be in the handwriting of the Appellant. Such material seized in the case of a third party which is not in the hand writing of the Appellant does not constitute adequate evidence to draw any adverse inference against the Appellant, in the absence of any other corroborative evidence. This proposition has been laid down by the Hon'ble Delhi High Court in the case of* ***CIT Vs Sant Lal [2020] 118 taxmann com 432 (Del),*** *wherein it was held therein that*

> *"where a diary was seized in search of the premises of a third party allegedly containing entries of hundi transactions on behalf of various parties including the assessee, no addition could be made based on the said entries since the diary was neither found from premises of assessee nor was it in handwriting of assessee and revenue failed to produce any other cogent material to link the assessee to the diary".*

The ratio of the said decision is squarely applicable to the case of the Appellant as the AO has not referred to any cogent evidence applicable to the case of the Appellant. As the AO has not referred to any cogent material to corroborate that the entries made in the loose sheet seized from a third party which are purportedly the transactions made by the Appellant.

6.3.15 *A narration made in a loose sheet by a third person with scant details cannot be used to fasten tax liability upon the person. In the absence of any corroborative evidence to attribute the entries to such a person. Such seized material is liable to be treated as a unsubstantiated, unverified or dumb document, which does not have any evidentiary value in respect of the entries found therein, unless corroborative evidence is available which can provide necessary reliable basis for deciphering that the narration contained in the seized material have actually taken place.*

6.3.16 *It would be also relevant to refer to the decision of* ***Hon'ble ITAT, Jabalpur in the case of ACIT Vs Satyapal Wassan [TS-5104-ITAT-2007(Jabalpur)-O] (2008) 5 DTR 0202****, wherein the Hon'ble ITAT stressed the importance of gathering corroborative evidence in support of the contents of a document, particularly when the document is bereft of necessary details and is not complete in all respects, by stating as under:*

> *"For the sake of argument if we accept the submission of the learned Departmental Representative that the learned CIT(A) erred in accepting fresh evidence then what is left after ignoring those affidavits is the bare document No. 7 with the bare details as referred to above. The moot question now arises is whether any addition can be made on the basis of that document. We have already pointed out above that this document is bereft of necessary details about year of transaction, ownership of transaction, nature of transaction, necessary code for deciphering the figures. It may be possible that a document may not be complete in all respects as the businessmen or tax evaders may choose to record minimum details on a document and keep the rest in their memory. It is the duty of the AO to carry out necessary investigations by correlating the impugned document with other documents seized, with regular books of account, with record kept by outside agencies, such as banks or financial institutions or debtors/creditors and finally, by recording the statements of concerned parties so as to fill up the gaps in*

> *confirming the inference arising from the documents for a proper charge of tax. Such correlation is necessary unless the document is capable of speaking giving full details so as to enable any intelligent person to find out the nature of transaction, the year of transaction, the ownership of the transaction and quantum thereof. Even in that situation, it is necessary to give opportunity to the assessee to offer his explanation and investigation be carried out to strengthen the direct inference arising from this document."*

6.3.17 *The proposition that addition cannot be made merely on the basis of entries in loose sheets found in the premises of a third party without bringing on record independent evidence to corroborate such entries has been reiterated in several decisions. Some of the decisions to this effect are* ***MM Financiers (P) Ltd Vs. DCIT (2007) 107 TTJ (Chennai) 200, Regency Mahavir Properties Vs ACIT [2018] 169 ITD 35 (ITAT-Mumbai), ACIT Vs. Katrina Rosemary Turcotte [2017] 190 TTJ 681 (ITAT-Mumbai), DCIT Vs. Vipin Aggarwal [2017] 83 taxmann.com 6 (ITAT Chandigarh), S.P Goyal Vs DCIT [2002] 82 ITD 85 (TM) IΠAT, T.S Venkatesan Vs ACIT [2000] 74 ITD 298 (Cal) and Monga Metals (P) Ltd Vs ACTT [2000] 67 TTJ 247 (All).***

6.3.18 *In particular, it is of critical importance that the evidence to corroborate the entries indicating payments in the seized material found with a third party is available with specific reference to the fact regarding actual transfer of money from the said third party to the recipient named in the said entries in the seized material. The Hon'ble ITAT, Mumbai held in the case of* ***Riveria Properties Private Limited Vs ITO in ITA No.250/MUM/2013*** *that the AO is required to bring further evidence on record to show that the money was actually exchanged between the parties in a case where there is no other evidence on record to prove that on-money was paid except the loose sheet found in the premise of a third party and admission made by the third party. The relevant part of the said decision is reproduced as under:*

> *"In the present case on hand, except loose sheet found in the premises of third party and admission made by the third party in their assessment proceedings, here is no other evidence on record to prove that on money is paid. The assessing officer, without brought on record any evidence to prove that on money is exchanged between the parties, merely harping upon the loose sheet and the third party admission, which cannot be considered as conclusive evidence against the assessee to bring on money to tax as undisclosed income. The AO is required to bring further evidence on record to show that actual on money is exchanged between the parties, but literally failed to do so. The A.O. did not conduct any independent enquiry relating to the value of the property instead, merely relied upon the statement given by the purchasers of the property, which is not correct. Further, there is no proof of origin and destination of on money. The A.O failed to prove the source of the purchasers as to how the money was arranged and also failed to prove the deployment of unaccounted money by the seller by any form of evidence. Under these circumstances, based on paper jottings as conclusive evidence on money cannot be brought to tax as income from undisclosed sources."*

6.3.19 *As per the decisions of the Hon'ble Apex Court in the cases of* ***CBI Vs. VC Shukla & Others (1998) 3 SCC 410, Common Cause (A Registered Society) Vs. Union of India (2017) 77 taxmann.com 254 (SC) and Dhakeshwari Cotton Mills Lids. CIT (1954) 26 ITR 775 (SC)*** *corroborative evidence is essential to support the evidence found in third party premise. In order to properly appreciate the issue, it is useful to refer to the following extract from the decision of Hon'ble Apex Court in the case of* ***Dakeswari Cotton Mills Ltd Vs. CIT (1954) 26 ITR 775 (SC):***

> *"As regards the second contention, we are in entire agreement with the learned Solicitor-General when he says that the Income-tax Officer is not fettered by technical rules of evidence and pleadings, and that he is entitled to act on material which may not be accepted as evidence, a court of law, but there the agreement ends; because it is equally clear that in making the assessment under sub-section (3) of Section 23 of the Act, the Income Tax Officer is not entitled to make a pure guess and make an assessment without reference to any evidence or any material at all. There must be something more than bare suspicion to support the assessment under section 23(3). The rule of law on this subject has, in our opinion, been fairly and rightly stated by the Lahore High Court in the case of Seth Gurmukh Singh (supra)".*

6.3.20 *As evident from the decisions cited above, though it is true that the provisions of Evidence Act do not apply with the same rigor to the Income Tax proceeding s, but the AO is not entitled to make a pure guess and make an assessment without reference to any evidence/material. It follows there from that addition cannot be made unless there is corroborative evidence to validate the entries found in the material seized from a third party.*

6.3.21 *As discussed supra, the seized material relied upon by the AO primarily is the narrations contained in the loose sheets. The AO cannot arrive at any conclusion solely on the basis of this loose sheet that the Appellant have actually received any amounts by way of cash. When there is no corroborative evidence to prove that the payments noted in the seized material have actually materialised and transfer of money has actually taken place between the concerned parties.* ***There exists no case for the AO to make any addition on the basis of such entries found in the seized loose sheets*** *and therefore, the undersigned holds that the loose sheet seized from a third party cannot be used as incriminating material against the appellant without independent and cogent corroboration. Consequently, the addition based solely on the said loose sheet is unsustainable.*

6.3.22 *During the course of appellate proceedings, the AR has laid considerable emphasis on the sworn statement of the very person from whose premises the loose sheet was seized by contending that this aspect has a decisive bearing on the issue. It was submitted that the said person was examined on oath and, in clear and unequivocal terms, categorically denied having received any cash in connection with the figures noted in the loose sheet. The AR highlighted that the deponent expressly clarified that the figures recorded were only expectations, projections or tentative estimates and did not represent actual cash receipts or completed transactions. According to the AR, this clarification directly strikes at the foundation of the AO's inference that the loose sheet evidences unaccounted cash receipts. The AR further submitted that the explanation* *offered by the deponent is both plausible and consistent with the nature of the document itself. The loose sheet is an informal paper containing rough noting(s), without dates, names of customers, signatures, mode of receipt or any indication that the figures were acted upon. The AR claimed that such documents are commonly used in business environments for planning, estimation or internal reference and cannot, without more, be equated with evidence of real income. When the author or custodian of such a document himself explains that the figures are only indicative and not actual, the evidentiary value of the document is substantially diluted.*

***6.3.23** It was also strongly contended by the AR that the AO has not brought on record any independent evidence to disprove or contradict the sworn statement of the deponent. The AR pointed out that in the absence of any such corroborative material, the sworn denial remains uncontroverted and must be accepted. The AR further contended that the AO has not conducted any further enquiry to test the veracity of the deponent's explanation. The deponent was not summoned again, nor was he confronted with any material alleged to contradict his statement. The assessment order does not record any reasons for rejecting the explanation offered in the sworn statement. Instead, the AO has selectively relied on the existence of the loose sheet while completely ignoring the categorical denial of actual cash receipt contained in the same statement. Such selective reliance, according to the AR, is impermissible and contrary to settled principles governing appreciation of evidence.*

***6.3.24** The undersigned has carefully considered the detailed submissions of the AR, examined the sworn statement of the person from whose premises the loose sheet was seized, and perused the assessment order in this regard. The undersigned finds that the deponent has, on oath, clearly denied receipt of any cash and has explained the context in which the figures were recorded as being only expectations or estimates. The undersigned also notes that the AO has not brought on record any material to disprove this explanation or to establish that the figures represent actual cash receipts and therefore is of the view that no independent corroborative evidence has been produced by the AO to contradict the sworn denial. At this juncture, it is significant to rely upon the decision of the Hon'ble Apex Court in the case of **CIT v. P.V. Kalyanasundaram [2007] 164 Taxman 78 (SC),** the facts were that, in the course of search, certain loose sheets containing noting(s) evidencing payment of consideration over and above the document price were found. The assessee stated that he could not remember the purpose for which the noting(s) were made. The vendor deposed that he had received excess consideration than what had been recorded in the document. He however, retracted from his statement later. Nevertheless, addition of the difference was made based on the contradictory statements of the vendor and considering the evidentiary value of the noting(s) on the loose paper. The addition was deleted by the appellate authorities. The High Court dismissed the revenue's appeal. The Hon'ble Supreme Court upheld the order of the High Court holding that the issues related to questions of fact.*

***6.3.25** In the present case, neither the Investigation Officer nor the Assessing Officer had any occasion to confront the representatives of the appellant company with the alleged cash transaction during the course of the search or the assessment proceedings, nor has any material been brought on record to demonstrate the application or utilisation of the purported cash receipts. In the absence of any such confrontation or rebuttal, the sworn explanation furnished by the deponent remains* *unchallenged and cannot be brushed aside on mere conjecture or surmise. When the loose sheet is read in conjunction with the sworn statement of the person from whose premises it was seized, it does not establish the actual receipt of cash by the appellant. The categorical denial of cash receipt, having remained uncontroverted and unsupported by any contrary evidence, effectively demolishes the inference drawn by the AO, and therefore the reliance placed on the loose sheet to sustain the addition is misplaced and unsustainable in law.*

6.3.26 *During the appellate proceedings, the AR made comprehensive submissions contesting the allegation of cash payment in respect of the transaction involving a total consideration of Rs.35.52 Crores. The AR submitted that the registered sale deed executed between the parties categorically records that the entire consideration was paid through recognised banking channels and further submitted that the appellant had purchased a parcel of land situated at Vadapalani from Shri A. Gunasekaran and his wife in March 2023 for a total consideration of Rs.35.52 crores, inclusive of stamp duty and registration charges, which was duly recorded in the books of account. It was contended that the entire consideration was discharged exclusively through normal banking channels, as evidenced by the registered sale deed and the corresponding bank statements. The AR categorically asserted that no part of the transaction involved any cash payment at any stage. The relevant ledger accounts were produced before the undersigned for verification. On examination of the same, it is seen that a sum of Rs.23.40 crores and Rs.8.60 crores were paid to Shri A. Gunasekaran and his wife respectively, and that the total cost of the property, inclusive of stamp duty and registration charges, aggregated to Rs.35.52 crores.*

The sale deed contains detailed and specific recitals regarding the mode of payment, including cheque numbers, bank transfer particulars and dates of payment. It was emphasised that a registered sale deed is a statutory document carrying a strong presumption of correctness, and unless it is established to be sham or false, the consideration recorded therein must be accepted as genuine. The AR further submitted that the recitals in the registered sale deed stand fully corroborated by the appellant's bank statements, which conclusively evidence receipt of the entire consideration through banking channels. The banking trail was demonstrated to be complete, consistent and in exact agreement with the amounts mentioned in the sale deed. These receipts were duly recorded in the regular books of account, which were audited, and no discrepancy, unexplained credit or abnormal fund movement was noticed. It was specifically pointed out that there were no cash deposits, no parallel or undisclosed bank accounts and no unexplained inflows that could suggest receipt of any part of the consideration in cash.

6.3.27 *It was also highlighted that a simultaneous and extensive search was conducted at the appellant's business premises, project sites and other connected locations. Despite such an exhaustive search operation, no evidence of any cash payment made to Shri. Gunasekaran was found or seized. The AR contended that had there been any cash component in a transaction of such magnitude, some trace of its receipt, movement or utilisation would necessarily have been unearthed during the search. Further, the AR pointed out that the AO did not examine or record any statement from the counterparty to the transaction admitting receipt of cash over and above the recorded consideration. The AR asserted that the*

Investigation Officer having found evidence at the residence of Shri. Gunasekaran, the same was not confronted with the Managing Director or any other accountable persons of the appellant company.

6.3.28 *The undersigned after carefully considering the submissions advanced by the AR, examined the registered sale deed, verified the corresponding bank statements, and perused the findings recorded by the AO. On such examination, it is evident that the registered sale deed unequivocally records payment of the entire consideration of Rs.35.52 Crores through recognised banking channels. The mode, dates and quantum of payments as reflected in the sale deed are fully and conclusively corroborated by the appellant's bank statements and regular books of account. The undersigned also notes that during the course of search proceedings, no incriminating material whatsoever was found or seized to suggest that any part of the consideration was paid in cash. No unaccounted cash, loose papers, vouchers, diaries, parallel books of account or electronic evidence indicating cash payment were discovered. More significantly, the AO has also not brought on record any statement or confirmation from the counterparty or any third party to establish that any portion of the consideration was paid outside the banking channels.*

6.3.29 *In these circumstances, the undersigned is of the considered view that the AO has failed to bring on record any credible or tangible material capable of displacing the strong evidentiary value attached to the registered sale deed and the complete banking trail. It is a settled principle that mere suspicion or presumption, however strong, cannot take the place of proof, particularly when such suspicion is directly contradicted by contemporaneous statutory documents and verifiable banking records. Therefore, the undersigned holds that the entire consideration of Rs.35.52 Crores was paid through banking channels as recorded in the registered sale deed, and the allegation of any cash payment in respect of this transaction is without factual or legal basis. Consequently, any addition or adverse inference drawn on account of the alleged cash component is unsustainable.*

6.3.30….

6.3.31…..

6.3.32 *The undersigned has carefully considered the detailed submissions of the AR, examined the assessment records and the reasoning adopted by the AO in this regard. The undersigned finds that the appellant had indeed made a specific request for cross-examination of the vendor, whose statements and related material were relied upon in the assessment. The undersigned further finds that the AO has neither granted such opportunity nor recorded any reasons for rejecting the request. The assessment order does not even advert to the request for cross-examination, which indicates that the issue has not been addressed at all. The undersigned observes that the AO has relied upon third-party material without affording the appellant an opportunity to confront or test the same. Such reliance, in the absence of cross- examination, is contrary to the principles of natural justice. When any adverse material originating from a third party is relied upon to support an addition, the principles of fairness and natural justice mandate that the assessee must be afforded a reasonable and effective opportunity to cross-examine the concerned person. At this juncture, it is more significant to rely upon the decision of the Hon'ble Apex Court in the case of* ***Andaman Timber***

Industries Ltd v. CCE [2015] 62 taxmann.com 3/52 GST 355*, where in it has been held as under:*

> *"According to us, not allowing the assessee to cross-examine the witnesses by the Adjudicating Authority though the statements of those witnesses were made the basis of the impugned order is a serious flaw which makes the order nullity inasmuch as it amounted to violation of principles of natural justice because of which the assessee was adversely affected."*
>
> *8.40 In view of the above judicial precedents (supra) and the reasons elaborately set out above, we are of the considered view that, the AO's failure to allow the assessee opportunity to cross examine this Departmental witness, Shri XXXXXX, on whose statement he was relying upon, was a serious and fundamental error which rendered the impugned addition(s) to be untenable."*

6.3.33 *Further, the Hon'ble jurisdictional tribunal in the case of* ***M/s. Bannari Amman Educational Trust v. ACIT, Central Circle-3(2) Chennai in 3310 to 3314/Chny/2024 dated 14.08.2025*** *has relied on above decision of the Hon'ble Apex Court. Therefore, in view of the above specific decision of the jurisdictional tribunal, the undersigned holds that the failure of the AO to grant cross-examination, despite a specific request by the appellant, constitutes a procedural infirmity and a violation of the principles of natural justice. Any addition made on the basis of such untested third-party material is legally unsustainable. Accordingly, the addition founded on such material cannot be sustained.*

6.3.34 *The undersigned observes that the AO has invoked the provisions of section 69A of the Act to bring the amount of Rs. 18.87Crores to tax on the footing that the appellant was in possession of unaccounted money. A careful and detailed examination of the scope and conditions prescribed u/s 69A of the Act, however, makes it abundantly clear that the provision has been invoked without satisfying its basic statutory requirements, rendering the action legally untenable.*

6.3.35 *Before going into the merits of the grounds raised, it is essential to bring it on record the relevant provision of section 69A of the Act.*

> ***69A.*** *Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year.*

6.3.36 *On a plain reading of the section, would reveal that it is the money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article in respect of which the appellant is found to be the owner, then the provisions of section 69A will squarely apply. Further there are two essential ingredients, i.e. the assessee should be the owner and the other is* *that such money, bullion, jewellery or valuable article found. Thus, to invoke the provisions, these two essentials things are to be taken into consideration. Further, the assessee should explain the nature and source to the satisfaction of the AO. In the case of the appellant, what the search team has found is not any money, bullion, jewellery or valuable article but has come across only registered sale deed.*

***6.3.37** At the outset, the provisions of section 69A of the Act is a deeming provision and can be applied only when an assessee is **found to be the owner** of money, bullion, jewellery or other valuable articles which are not recorded in the books of account and in respect of which the assessee either offers no explanation or the explanation offered is not satisfactory. Thus, the very foundation for invoking section 69A is the **actual discovery and establishment of ownership** of unrecorded money or valuable articles. The expression "found to be the owner" is of critical significance and necessarily postulates physical discovery or demonstrable possession or control of such money or valuables during search or other proceedings. In the present case, it is an undisputed factual position that the appellant was not found to be the owner of any unrecorded money. No unaccounted cash, bullion, jewellery or other valuable articles were found or seized from the appellant's business premises, project sites, residences of directors or employees, or from any location connected to the appellant. The assessment order does not identify any instance of physical possession or ownership of unaccounted money by the appellant. In the absence of such discovery, the very jurisdictional fact necessary for invoking section 69A of the Act is missing.*

***6.3.38** The AO appears to have proceeded on the assumption that alleged cash receipts inferred from statements, loose sheets or electronic records can be equated with "money" for the purposes of section 69A of the Act. Such an approach is fundamentally flawed. Section 69A does not contemplate taxation of inferred, estimated or presumed cash receipts. It applies only where money is actually found and ownership thereof is established. Allegations of receipt of cash, howsoever strong, cannot substitute the statutory requirement of discovery of money. To hold otherwise would amount to expanding the scope of section 69A of the Act beyond its legislative intent.*

***6.3.39** Further, even assuming for argument's sake that there were allegations of cash receipts, the AO was first required to establish, through cogent evidence, that such money was actually received and that the appellant was the owner thereof. No such finding has been recorded. There is no identification of the source of the alleged cash, no evidence of its movement, no indication of its custody, and no demonstration of its application or utilisation. In the absence of these essential facts, the invocation of section 69A of the Act becomes a mere legal device to tax a hypothetical income.*

***6.3.39** It is also relevant to note that the AO has not brought on record any cogent material to prove that any money, alleged to have been received, was not recorded in the books, for the simple reason that no such money was ever found. The application of section 69A of the Act, therefore, rests entirely on conjecture rather than on objective facts. Being a deeming provision, section 69A of the Act must be strictly construed and can be applied only when the precise conditions laid down therein are satisfied. It cannot be invoked on the basis of assumptions, estimates or inferences drawn from indirect material. In the present case, the absence of any finding that the* *appellant was the owner of unrecorded money is fatal to the application of section 69A of the Act.*

6.3.40 *In this regard, it is significant to rely upon the decision of the Hon'ble Apex court in the case of **D.N.Singh [2023 (5) TMI 746; 454 ITR 595],** wherein it has been held that fixed deposit receipts seized during search are merely documents evidencing debt due to the assessee and would not carry any inherent market value and hence cannot be brought within the meaning of the term 'other valuable article'.*

6.3.41 *The Gujarat High Court in the case of Bhagwandas Narayandas has held as under :-*

> *"… the question is whether the fixed deposit receipts and documents of title relating to an immovable property are the things or articles which can be evaluated in terms of money. Obviously, a document of title relating to an immovable property or even a fixed deposit receipt issued by a bank in favour of a particular person are merely the documents of title which, though possessing much evidentiary value, do not possess any intrinsic market value."*
>
> *…………*
>
> *"There is nothing in the record to show that the fixed deposit receipts, which are seized in this case, carry any inherent market value with them. They are merely the documents evidencing the debt due to the assessee."*

6.3.42 *Further the Hon'ble Apex Court while delivering the judgement in this case has endorsed the view of the Gujarat High Court in the case of **Bhagwandas Narayandas [98 ITR 194 (1973)]**. The Hon'ble Apex Court has observed as under.*

> *" The Court approves the view taken by the High Court of Gujarat in Bhagwandas Narayandas (supra) that a document of title to immovable property or a fixed deposit receipt would not qualify as other valuable article."*
>
> *……*
>
> *"Valuable, therefore, cannot be understood as anything which has any value. The intention of the law-giver in introducing Section 69A was to get at income which has not been reflected in the books of account but found to belong to the assessee. Not only it must belong to the assessee, but it must be other valuable articles."*
>
> *………..*
>
> *"The concept of 'other valuable articles' may evolve with the arrival in the market of articles, which can be treated as other valuable articles on satisfying the other tests."*

6.3.43 *The above cited judicial decisions of the Hon'ble Apex Court goes on to prove that even the fixed deposit receipts found during the course of* *search cannot partake the character of any money, bullion, jewellery or valuable article. In the case of the Appellant what the search team found is only certain diary notings at a third party premise. Obviously, such evidence will not have the character of money, bullion, jewellery or valuable article as envisaged in the provisions of section 69A of the Act. In view of the above decision of the Hon'ble Apex Court, the undersigned is of the considered view that when nothing in the form of any money, bullion, jewellery or valuable article were found during the course of search, there can be no case to treat the evidence found about the repayment of the alleged loan will fetch the character of unexplained money as provided under section 69A of the Act. In view of this the undersigned is not inclined to accept the observation of the AO to treat the same as unexplained money u/s 69A of the Act.*

6.3.44 *In view of the foregoing, it is evident that the AO has invoked the provisions of section 69A of the Act without satisfying the mandatory preconditions prescribed under the Act. The appellant was not found to be the owner of any unrecorded money, bullion, jewellery or other valuable articles. Consequently, the invocation of section 69A is wholly misconceived in law, and the addition made thereunder is unsustainable.*

6.3.45 *In view of the detailed discussion made supra on various aspects and the judicial decision(s) relied on, the grounds raised by the appellant upon the addition of Rs. 18.87 Crores are here by treated as* ***allowed*** *and the AO is directed to* ***delete*** *the addition of Rs.18,87,00,000/- u/s 69A of the Act for the AY 2023-24."*

64. Aggrieved by the order of the Ld.CIT(A) deleting the additions made by the AO towards the alleged undisclosed income arising from the sale of flats and the addition made on account of unexplained investment u/s.69/69A of the Act, the Revenue has preferred the present appeal before the Tribunal.

65. The Ld.DR, appearing for the Revenue, assailed the order of the Ld.CIT(A) and submitted that the Ld.CIT(A) had erred in proceeding on the premise that the impugned addition was founded merely on the statements recorded during the course of search. According to the Ld. DR, the addition made by the AO was based on a comprehensive body of incriminating material and corroborative evidence unearthed during the course of search proceedings.

66. The Ld.DR submitted that, while making the impugned addition, the AO had, inter alia, relied upon loose sheets seized from the Corporate Office of the assessee group containing details of "Actual Price" vis-à-vis "Final Price", which, according to the Revenue, evidenced cash differentials in the sale

consideration of flats. The AO had also taken into consideration WhatsApp conversations retrieved from the mobile phones of the sales personnel relating to collection of cash, sworn statements recorded from five employees consistently referring to collection of cash from purchasers of flats, reduction of sale price in the ERP system, confirmation obtained from the software vendor regarding the facility for post-booking modification of prices, Buyer Abstract Analysis Reports and the ERP/CRM data indicating systematic variations in the prices recorded therein. It was, therefore, contended that the impugned addition was founded upon several independent pieces of evidence which, when read cumulatively, mutually corroborated each other and was not based merely upon the statements recorded during the course of search. The Ld. DR, therefore, submitted that the finding of the Ld. CIT(A) to the contrary was factually erroneous.

67. The Ld. DR further submitted that the statements of the concerned employees were recorded u/s.132(4) of the Act after confronting them with the documentary material found during the course of search. According to the Ld.DR, the subsequent retractions made after a lapse of about ten days were an afterthought, self-serving and unsupported by any contemporaneous material. It was submitted that the retractions neither rebutted nor satisfactorily explained the documentary evidence with which the employees had been confronted during the course of search. The Ld.DR further pointed out that no contemporaneous complaint alleging coercion, threat or undue influence had been made before any authority and that the panchanamas recorded that the search proceedings had been conducted in an orderly manner. In support of these submissions, the Ld. DR placed reliance on the decisions in Surjeet Singh Chhabra v. Union of India (1997) 1 SCC 508 and B. Kishore Kumar v. DCIT. It was further contended that the similarity in the responses of employees discharging similar functions could not, by itself, render their statements unreliable; rather, according to the Revenue, the same supported the existence of a standardized practice followed by the assessee in relation to collection of cash from customers.

68. Adverting to the methodology adopted for quantification of the alleged undisclosed consideration, the Ld.DR submitted that the same was founded upon the seized ERP/CRM data and was further supported by the sworn statement of Shri Vijay Shyam. It was submitted that Shri Vijay Shyam had explained that any reduction exceeding 5% from the “Actual Price” represented the cash component received from customers. According to the Ld. DR, the AO had merely adopted the methodology emerging from the seized material and the statement of the concerned employee and had, in fact, granted the benefit of a standard discount of 5% while computing the alleged undisclosed consideration.

69. The Ld. DR further submitted that the Buyer Abstract Analysis Reports and Excel sheets recovered from the pen drive of Shri Vijay Shyam constituted the primary material for quantification of the addition. It was, therefore, contended that the computation made by the AO was based on the incriminating material recovered during the course of search and represented a reasonable method of quantification having nexus with such material.

70. As regards the WhatsApp conversations relied upon by the AO, the Ld. DR submitted that the same were not relied upon in isolation but constituted corroborative material supporting the seized documents, ERP/CRM data and the statements recorded during the course of search. It was, therefore, contended that the Ld.CIT(A) was not justified in discarding the evidentiary value of the WhatsApp conversations when the same were required to be appreciated along with the other material brought on record.

71. On the strength of the aforesaid submissions, the Ld.DR prayed that the order of the Ld.CIT(A) on this issue be reversed and the addition of Rs.1,76,09,243/- made by the AO towards undisclosed income arising from sale of flats be restored.

72. Coming to the addition of Rs.18,87,00,000/- made by the AO towards unexplained investment in the purchase of land at Vadapalani, the Ld. DR submitted that the handwritten notebook recovered from Shri A. Gunasekaran constituted a contemporaneous record pertaining to the sale of 14.5 grounds of land at Vadapalani to the assessee at the rate of Rs.3.70 crores per ground. According to the Ld. DR, the entries relating to payments made through banking channels, as recorded in the notebook, precisely tallied with the registered sale deed, the corresponding bank transactions and the instalments actually received by the vendor. Such precise correspondence, according to the Ld. DR, established the authenticity and reliability of the entries contained in the notebook. It was further pointed out that photographs of the very same entries were also found in the mobile phone of the vendor, thereby lending further corroboration to the contemporaneous nature of the record.

73. The Ld. DR contended that once the cheque/banking entries recorded in the notebook stood independently corroborated by the registered document and banking transactions, there was no justification for accepting such entries while simultaneously rejecting the corresponding cash entries contained in the very same document. According to the Ld. DR, the seized document was required to be read and appreciated as a whole and its evidentiary value could not be selectively accepted in respect of the accounted component while being rejected in respect of the alleged unaccounted component.

74. The Ld. DR further submitted that the Ld.CIT(A) had not appreciated the statement of Shri A. Gunasekaran in its proper perspective. It was pointed out that Shri Gunasekaran had admitted the authorship of the notebook, the sale of the subject property to the assessee, the agreed consideration of Rs.53.65 crores calculated at Rs.3.70 crores per ground and receipt of Rs.23.63 crores through banking channels. In the circumstances, the subsequent explanation of the vendor that the amount of Rs.18.87 crores represented merely an “expectation”, according to the Ld. DR, was inconsistent with the specific and

precise monetary entries appearing in the contemporaneous record and was liable to be regarded as a subsequent self-serving explanation.

75. In support of the evidentiary value of the seized material, the Ld. DR placed reliance on the decision of the Hon'ble Madras High Court in CIT v. Rangroopchand Chordia (2016) 241 Taxman 221 (Mad), and submitted that entries contained in loose sheets or similar documents could constitute relevant evidence where the same were corroborated by independent material. According to the Ld. DR, in the present case, the entries in the notebook stood corroborated by the registered sale deed, banking transactions and other material recovered during the course of search and, therefore, the AO was justified in placing reliance thereon.

76. The Ld. DR accordingly submitted that the AO had rightly treated the sum of Rs.18,87,00,000/- as unexplained investment u/s.69 of the Act. It was emphasized that the addition was founded primarily upon the contemporaneous documentary evidence in the form of the notebook maintained by the vendor and the corroborative material available on record, and not merely upon the oral statement of the vendor. Consequently, according to the Ld. DR, where the documentary evidence independently established the transaction and stood corroborated by banking and other contemporaneous records, the absence of cross-examination, by itself, would not render the addition unsustainable.

77. The Ld. DR, therefore, prayed that the findings of the Ld.CIT(A) be reversed, the additions made by the AO be restored and the appeal preferred by the Revenue be allowed.

78. The Ld.AR appearing for the assessee strongly supported the order passed by the Ld.CIT(A) and submitted that the Revenue has not been able to point out any factual error, perversity or legal infirmity in the findings recorded by the first appellate authority. According to the Ld. AR, the Ld. CIT(A), after examining the seized material, statements recorded during search, subsequent

retractions, regular books of account, ERP records, registered documents and banking transactions, has correctly deleted both the additions, namely, (i) Rs.1,76,09,243/- towards alleged unaccounted consideration received on sale of flats, and (ii) Rs.18,87,00,000/- towards alleged cash consideration paid for acquisition of the Vadapalani property.

79. The Ld. AR submitted that the arguments advanced by the Ld.DR are substantially a reiteration of the reasoning contained in the assessment order. The Revenue has not brought before the Tribunal any fresh material capable of dislodging the categorical factual findings recorded by the Ld. CIT(A). The appeal of the Revenue, therefore, deserves to be dismissed.

80. The Ld. AR submitted that the very foundation of the Revenue's case is fundamentally defective. Despite an extensive search covering the corporate office, project sites, residences of directors and employees and examination of electronic devices and records, not a single piece of direct evidence was found demonstrating actual receipt of cash by the assessee from any purchaser of a flat.

81. The Ld.AR submitted that no unaccounted cash was found. No parallel cash book or ledger recording on-money receipts was unearthed. No receipt or acknowledgement for cash consideration was found. No customer admitted payment of cash to the assessee. No corresponding unexplained asset, expenditure or investment representing utilisation of the alleged cash receipts was detected. These crucial factual findings have been specifically recorded by the Ld. CIT(A).

82. The Ld. AR submitted that the Revenue seeks to overcome this fundamental evidentiary deficiency by putting together several pieces of circumstantial material and describing them collectively as corroborative evidence. However, a collection of assumptions does not become proof merely because those assumptions are considered cumulatively. What is required to

be established is the actual receipt of consideration outside the books, and not merely the possibility of such receipt.

83. Adverting to the Revenue's reliance upon the expressions “Actual Price” and “Final Price” appearing in certain internal records, the Ld. AR submitted that the nomenclature used in an internal MIS or sales document cannot determine the legal character of the transaction. The Ld.AR submitted that the price initially quoted or entered in an ERP system represents, at best, a target, list, benchmark or aspirational price. The actual consideration ultimately realised from a purchaser necessarily depends upon negotiations and numerous commercial considerations such as the floor, location and orientation of the apartment, stage of construction, booking date, prevailing market conditions, bulk booking, payment schedule, repeat-customer concession, referral benefits and liquidity requirements of the developer.

84. The Ld.AR argued that the Ld.CIT(A) has specifically found that the primary documentary evidence comprising registered sale deeds, sale agreements, contemporaneous ERP/accounting entries and banking records constituted a consistent chain of evidence regarding the consideration actually received, and the AO did not hold any of those documents to be fabricated or unreliable. Equally importantly, the so-called “median rate” did not emanate from any seized document evidencing a completed sale at such rate. Therefore, merely because the final negotiated selling price was lower than an initial quotation or benchmark rate, the difference cannot automatically acquire the character of unaccounted cash.

85. The Ld. AR further submitted that the entire quantification made by the AO proceeds upon an artificial assumption that discounts up to 5% are genuine whereas every rupee of reduction beyond 5% necessarily represents cash collected outside the books. The Revenue itself states that, after allowing a standard discount of 5%, the differential between the assumed actual/median rate and the final ERP rate was treated as alleged cash receipt. According to

the Ld. AR, there is no provision under the Act, recognised accounting principle or commercial rule under which a real-estate developer is prohibited from granting a discount exceeding 5%. The Revenue has also not demonstrated through purchaser-wise enquiry that whenever the discount crossed 5%, an equivalent amount was actually paid in cash. The Ld.AR submitted that the statement of an employee regarding an alleged 5% benchmark cannot convert a commercial pricing guideline into a statutory presumption of undisclosed income.

86. The Ld. AR emphasized that the regular books of account of the assessee have been accepted by the AO. Section 145(3) of the Act has not been invoked. No defect has been pointed out in the method of accounting. There is no mismatch demonstrated between the agreements, registered sale deeds, ERP records and banking receipts. According to the Ld.AR that having accepted the very books for turnover, expenditure and business results, the AO could not selectively disregard the recorded sale consideration and replace it by an assumed consideration derived through a post-search exercise.

87. The Ld.AR argued that the Ld.CIT(A) has rightly found that such selective acceptance of the books is legally untenable and that the AO cannot accept the books as reliable while simultaneously disregarding the fundamental entries recording the sale consideration.

88. The Ld.AR relied upon the principle noticed by the Ld.CIT(A) from Fort Projects (P.) Ltd. v. DCIT [2013] 29 taxmann.com 84 (Kol. Trib.), namely, that commercial expediency in fixing the price of a particular flat cannot be questioned by the Department in the absence of tangible evidence of suppression of consideration.

89. As regards the reliance placed by the Revenue upon statements recorded from various employees u/s.132(4) of the Act, the Ld.AR submitted that the Ld. CIT(A) has considered this aspect in considerable detail. The

statements were retracted through sworn affidavits shortly after copies thereof were made available. Despite such categorical retractions, neither the Investigation Wing nor the AO chose to re-examine the deponents, confront them with their affidavits or bring independent material on record to demonstrate that the retractions were false.

90. The Ld. AR submitted that the issue is not merely whether coercion was conclusively established. The more fundamental question is whether, after the statements stood retracted, there existed independent evidence proving actual receipt of cash by the assessee. The answer is plainly in the negative. The Ld.AR relied upon Mehta Parikh & Co. v. ITO (1956) 30 ITR 181 (SC) and Daulat Ram Rawatmull v. CIT (1973) 87 ITR 349 (SC), as noticed by the Ld. CIT(A), for the proposition that where factual assertions contained in affidavits are sought to be disputed, the Revenue cannot simply ignore the affidavits without examining the deponents or bringing contrary material on record.

91. The Ld. AR further submitted that the CBDT itself, through Instruction F.No.286/2/2003-IT(Inv.II) dated 10.03.2003, has discouraged obtaining confessions during search and emphasized collection of credible evidence. Thus, the Ld. CIT(A) was justified in holding that retracted statements, unsupported by transaction-specific corroborative evidence, could not sustain the impugned addition.

92. The Ld. AR submitted that the WhatsApp messages relied upon by the Revenue have to be appreciated for what they actually contain and not for what the Revenue seeks to infer from them. The chats may at best indicate enquiries, discussions or negotiations regarding possible modes of payment. They do not establish that any particular purchaser actually paid cash, the quantum thereof, the date of payment, the person who received it or its subsequent utilisation.

93. The Ld.AR submitted that the Revenue's contention that WhatsApp chats constitute corroborative evidence begs the very question which requires proof.

Corroboration necessarily presupposes the existence of a primary fact requiring corroboration. Where actual receipt of cash itself has never been proved, an ambiguous conversation cannot be elevated into corroboration of an unproved fact. The Ld.AR argued that the Ld.CIT(A), therefore, correctly held that electronic communications, without a nexus to any specific customer payment or actual flow of unaccounted funds, cannot sustain the addition.

94. The Ld. AR further submitted that the Revenue has placed considerable emphasis upon the statement of the software implementation consultant that the ERP/CRM system technically permitted alteration of the sale price after booking. According to the Ld. AR, there is a fundamental distinction between technical capability and proof of misuse. Merely because software permits alteration of a field does not establish that an alteration was made for concealing cash receipts. The Ld.AR submitted that Post-booking modifications can arise for numerous legitimate reasons including renegotiation, cancellation and rebooking, additional discounts, correction of data-entry errors, changes in payment terms and commercial settlements. Therefore, proof that the software possessed an editing facility cannot substitute for evidence that the assessee received cash.

95. The Ld. AR submitted that the Buyer Abstract Analysis Reports and Excel workings relied upon by the Revenue are fundamentally computational documents. Even assuming that such documents are genuine, they merely compare different prices or rates. According to the Ld.AR a mathematical difference between two figures is not evidence that the difference physically changed hands in cash. The crucial evidentiary link remains absent: Who paid the cash? To whom? On what date? How much? Where was it recorded or utilised?. The Ld.AR submitted that none of these questions is answered by the material relied upon by the Revenue.

96. The Ld. AR further submitted that the AO's methodology suffers from the additional vice of indiscriminate extrapolation. Even assuming, without

conceding, that some material raised suspicion in relation to a particular customer or flat, the same could not be extrapolated to independent transactions involving different customers, units, projects and commercial circumstances. The Ld.AR submitted that the Ld. CIT(A) specifically found that the AO applied an assumed rate uniformly across several transactions without seized material relatable to each transaction and without establishing a rational nexus between the seized material and transactions to which extrapolation was applied. The resulting computation was therefore held to be mechanical and based upon assumptions rather than real income.

97. The Ld. AR relied upon the principles emerging from Fort Projects (P.) Ltd., D.N. Kamani (HUF) v. DCIT, Mani Square Ltd. v. ACIT, Meenamani Ganga Builder LLP v. ACIT and DCIT v. Heaven Associates, as cited before the Ld. CIT(A), to submit that evidence relating to isolated transactions cannot be mechanically extrapolated to unrelated transactions without transaction-specific material.

98. The Ld.AR therefore submitted that the Ld.CIT(A)'s deletion of Rs.1,76,09,243/- rests upon several independent factual findings: absence of direct evidence of cash receipt; absence of customer confirmation; absence of unaccounted assets or utilisation; acceptance of regular books; existence of registered sale documents and banking records; retraction of employee statements; absence of independent corroboration; and arbitrary extrapolation through a notional median rate. According to the Ld.AR that none of these findings has been shown by the Revenue to be perverse. The Ld.AR thus submitted that the first limb of the Revenue's appeal therefore deserves to be dismissed.

99. Turning to the second addition, the Ld. AR submitted that the entire case of the Revenue rests upon handwritten notings contained in a notebook found at the residence of the vendor, Shri A. Gunasekaran. The document was admittedly not found from the assessee. It was not written by the assessee or

any of its directors or employees. There is no evidence that the assessee instructed the vendor to prepare it or adopted its contents. Consequently, the presumptions available under sections 132(4A)/292C of the Act, if otherwise applicable, operate against the person from whose possession the document was found and cannot automatically be transplanted against the assessee.

100. The Ld.AR submitted that the principle that a third-party loose sheet cannot, without cogent corroboration, fasten liability upon the assessee finds support in CIT v. Sant Lal [2020] 118 taxmann.com 432 (Delhi) and the other authorities considered by the Ld. CIT(A).

101. The Ld.AR submitted that the Ld.DR's principal contention is that since certain cheque entries appearing in the notebook correspond with actual banking transactions, the entry of Rs.18.87 crore described as “cash” must also represent an actual payment. The Ld. AR submitted that this reasoning is fallacious. A document may contain entries relating to completed transactions as well as proposals, expectations, projections or amounts yet to be received. The correctness of one entry does not create an irrebuttable presumption regarding every other notation. The Ld.AR submitted that more importantly, the alleged cash entry has no independent corroboration whatsoever. No cash was found. No withdrawal or source corresponding to Rs.18.87 crore was identified in the assessee's hands. No receipt acknowledging such payment was found. No corresponding investment or utilisation was established. No material was recovered from the assessee's premises recording such payment. Thus, corroboration of the accounted component cannot fill the evidentiary vacuum surrounding the alleged cash component.

102. The Ld. AR submitted that the Revenue's case becomes still weaker because Shri A.Gunasekaran, the very author of the notebook, was examined u/s.132(4) of the Act. He explained that the amount appearing against “cash” represented an amount expected to be received and not cash actually received. The Revenue's own record thus contains an explanation by the author

inconsistent with the inference sought to be drawn by the AO. The Ld.AR argued that the AO cannot rely upon the vendor's statement insofar as it supports the identity of the property and banking transactions while simultaneously rejecting his explanation regarding the alleged cash entry without bringing any contrary evidence. The Ld.AR thus submitted that the Ld.CIT(A) was therefore justified in applying the principle emerging from CIT v. P.V. Kalyanasundaram (2006) 282 ITR 259 (Mad.), affirmed in (2007) 294 ITR 49 (SC). Indeed, the assessee's case stands on a stronger footing because, unlike a case involving a vendor admitting additional consideration, the vendor here expressly denied actual receipt of the alleged cash amount.

103. The Ld. AR submitted that this is not merely a case where the Revenue lacks evidence. There is affirmative documentary evidence supporting the assessee. The registered sale deed records the consideration and the mode of payment. The corresponding payments are reflected in the bank statements and regular books of account. The Ld. CIT(A), after verification, found that the registered deed, bank statements and books were consistent and that no incriminating material indicating payment of cash had been found during search. According to the Ld.AR that the Revenue has not alleged that the registered instrument is sham or fabricated. Nor has any independent material been brought to displace its evidentiary value. Mere suspicion generated by a third-party notation cannot override contemporaneous statutory documentation supported by an established banking trail.

104. The Ld. AR submitted that an allegation involving cash payment of Rs.18.87 crore cannot exist in an evidentiary vacuum. If such an enormous cash payment had actually been made, the Revenue ought reasonably to have established at least some part of the money trail: the source from which the assessee generated Rs.18.87 crore; the date or dates on which it was allegedly paid; the persons through whom it was delivered; its receipt by the vendor; or its subsequent utilisation. According to the Ld.AR that none of these links has been established. The Ld.AR submitted that the Ld.CIT(A) correctly observed

that despite an extensive search, no evidence of receipt, movement or utilisation of such cash was unearthed. The decision in Riveria Properties Pvt. Ltd. v. ITO, ITA No.250/Mum/2013, noticed by the Ld.CIT(A), supports the requirement that the AO must bring further evidence demonstrating that on-money was actually exchanged and cannot merely rely upon loose-paper notings.

105. Dealing with the reliance placed by the Ld.DR upon CIT v. Rangroopchand Chordia (2016) 241 Taxman 221 (Mad.), the Ld. AR submitted that the Revenue itself invokes the decision on the proposition that loose sheets may possess evidentiary value where the contents are independently corroborated. There lies the distinction. In the present case, the banking entries may be corroborated by banking records, but the disputed cash entry of Rs.18.87 crore is not corroborated by any independent evidence of actual payment or receipt. Rather, the author of the document himself explained that it represented an expectation. Thus, the principle relied upon by the Revenue, properly applied, supports rather than undermines the order of the Ld. CIT(A).

106. The Ld.AR further submitted that the assessee specifically sought cross-examination of Shri A. Gunasekaran if his statement or material recovered from him was proposed to be used adversely. Admittedly, such opportunity was not afforded. The Ld.CIT(A) recorded a categorical finding that the AO neither granted cross-examination nor gave any reason for rejecting the request. Reliance upon third-party material in these circumstances violates the principles of natural justice. Reliance was placed upon Andaman Timber Industries v. CCE and the jurisdictional Tribunal decision in M/s Bannari Amman Educational Trust v. ACIT, ITA Nos.3310 to 3314/Chny/2024 dated 14.08.2025, which were specifically considered by the Ld. CIT(A).

107. The Ld.AR submitted that the Ld. DR's contention that cross-examination was unnecessary because documentary material existed cannot be accepted. The crucial interpretation of the word “cash” and whether it represented an

actual receipt depends upon the author of the document. Once the Revenue proposes to reject his explanation and use his document adversely against the assessee, the assessee's right to test such material assumes greater, not lesser, significance.

108. Without prejudice to the factual submissions, the Ld.AR strongly supported the independent finding of the Ld.CIT(A) regarding section 69A of the Act. The Ld.AR submitted that Section 69A of the Act is a deeming provision whose conditions must be strictly fulfilled. The statutory requirement is that the assessee must be “found to be the owner” of money, bullion, jewellery or other valuable article not recorded in the books. Here, no unexplained money was found in the possession or ownership of the assessee. What was found was merely a notebook at the residence of a third party. The Ld.AR submitted that the Ld.CIT(A) has accordingly held that the foundational requirement for application of section 69A of the Act was absent: no unaccounted cash, bullion, jewellery or valuable article was found from the assessee or from any location connected with it.

109. The Ld.AR argued that the Ld.CIT(A) also considered the decision of the Hon'ble Supreme Court in D.N. Singh, 454 ITR 595 (SC) and concluded that a mere document or diary notation cannot itself acquire the character of “money, bullion, jewellery or other valuable article” contemplated by section 69A of the Act. Therefore, quite apart from the complete absence of proof of payment, the addition fails on the threshold statutory requirement itself.

110. The Ld. AR submitted that the Revenue's approach effectively requires the assessee to establish that it did not pay Rs.18.87 crore in cash. The Ld.AR argued that such reverse burden is impermissible. The Ld.AR submitted that the initial burden lies upon the Revenue to establish the taxable event. Reliance was placed upon K.P. Varghese v. ITO (1981) 131 ITR 597 (SC) and Parimisetti Seetharamamma v. CIT (1965) 57 ITR 532 (SC), principles which have been specifically noticed by the Ld.CIT(A). The Ld.AR submitted that once the

assessee has produced the registered sale deed, bank statements and regular books demonstrating accounted payment, and the vendor himself has denied actual receipt of the disputed cash amount, the burden clearly shifts to the Revenue to establish the alleged extra consideration through cogent evidence. That burden remains wholly undischarged.

111. The Ld.AR finally submitted that the entire case of the Revenue proceeds upon an inference: since some entries in the notebook were correct, the disputed cash notation must also represent an actual transaction. At its highest, this may generate suspicion warranting investigation. It does not establish taxable income. The principle laid down by the Hon'ble Supreme Court in Dhakeshwari Cotton Mills Ltd. v. CIT (1954) 26 ITR 775 (SC) remains that although strict rules of evidence do not govern income-tax proceedings, an assessment cannot rest upon pure guess or bare suspicion. The Ld.AR submitted that the Ld.CIT(A), after appreciating the entire evidentiary record, found that the registered sale deed and banking trail were not displaced by any credible or tangible material and consequently held that the alleged cash payment was without factual or legal basis. Thus, the Ld.AR submitted that there is no perversity whatsoever in the findings of the Ld.CIT(A).

112. In view of the foregoing submissions, the Ld.AR submitted that the order passed by the Ld.CIT(A) is a well-reasoned and speaking order based upon a proper appreciation of the material available on record. According to the Ld.AR that the Revenue has failed to demonstrate that the findings of the Ld. CIT(A) are contrary to any material on record or suffer from perversity. On the contrary, the additions made by the AO rest upon presumptions, extrapolations and uncorroborated inferences rather than proof of actual receipt or payment of unaccounted cash. Accordingly, it was prayed that the findings of the Ld. CIT(A) deleting the addition of Rs.1,76,09,243/- towards alleged unaccounted consideration from sale of flats and the addition of Rs.18,87,00,000/- towards alleged cash payment in connection with acquisition of the Vadapalani property be upheld in toto and all the grounds raised by the Revenue be dismissed. The

Ld.AR, therefore, prayed that the appeal filed by the Revenue be dismissed in its entirety and the order of the Ld. CIT(A) be affirmed.

113. We have heard the rival submissions advanced by both the parties, carefully perused the assessment order and the impugned appellate order, and examined the material available on record. We find that the grounds raised by the Revenue, though separately worded, essentially assail the deletion of two substantive additions, namely, the addition of Rs.1,76,09,243/- towards alleged unaccounted cash receipts from the sale of residential flats and the addition of Rs.18,87,00,000/- towards alleged cash payment for the acquisition of the Vadapalani property. The other grounds concerning the evidentiary value of seized material, the statutory presumptions u/s.132(4A) and 292C of the Act and the alleged erroneous appreciation of evidence by the Ld.CIT(A) are integrally connected with these two additions and are, therefore, considered together.

114. At the outset, we deem it appropriate to delineate the principles governing appreciation of material gathered during the course of search proceedings. It is well settled that proceedings under the Act, are not fettered by the strict and technical rules of evidence applicable to criminal proceedings and that the AO is entitled to take into consideration all relevant material, including seized documents, loose sheets, electronic records, statements and surrounding circumstances. Equally, however, such latitude in matters of evidence does not confer authority upon the AO to make an addition founded upon conjectures, surmises or assumptions which do not bear a rational and proximate nexus with the material relied upon. Though the Revenue is not required to establish undisclosed income beyond reasonable doubt, the conclusion must nevertheless satisfy the test of preponderance of probabilities founded upon credible and objective material. Suspicion, howsoever strong, cannot substitute evidence of the taxable event.

115. The principal contention advanced by the Ld.DR is that the Ld.CIT(A) proceeded on an erroneous premise that the addition towards alleged unaccounted consideration from sale of flats was made by the AO solely on the basis of statements recorded from certain employees during the course of search. According to the Ld.DR, the AO had, in fact, relied upon a body of material comprising, inter alia, loose sheets containing expressions such as "Actual Price" and "Final Price", WhatsApp communications retrieved from mobile phones of sales personnel, statements recorded from five employees, Buyer Abstract Analysis Reports, Excel workings found in a pen drive, ERP/CRM data, the statement of the software implementation consultant and the technical facility available in the ERP system for modification of sale price subsequent to the initial booking.

116. We have carefully considered the rival submissions and perused the assessment order, the order of the Ld.CIT(A) and the material placed before us. On such consideration, we are unable to accept the Revenue's contention that the Ld.CIT(A) proceeded as though the addition was founded solely upon the statements of employees. A reading of the impugned appellate order demonstrates that the Ld.CIT(A) separately examined the internal price sheets, the methodology based upon the alleged permissible discount of 5%, the ERP/CRM data, the employee statements and their subsequent retractions, the WhatsApp communications, the Buyer Abstract Analysis Reports, the regular books of account and, importantly, the absence of transaction-specific corroborative evidence establishing actual receipt of cash. The Ld.CIT(A) did not proceed on the basis that the materials relied upon by the AO did not exist; rather, he examined their evidentiary worth and concluded that they did not establish actual receipt of unaccounted consideration by the assessee. The first premise of the Revenue's challenge is, therefore, factually misconceived.

117. The Ld.DR nevertheless submitted that the aforesaid materials, when read cumulatively and not in isolation, mutually corroborated each other and established a systematic modus operandi whereby part of the sale

consideration was received in cash and the sale price was thereafter reduced in the ERP system.

118. There can be no quarrel with the proposition that evidence is required to be appreciated cumulatively and that, in an appropriate case, an undisclosed transaction may be established through a chain of surrounding circumstances even in the absence of a single document recording every constituent element of the transaction. However, cumulative appreciation of evidence cannot mean that several ambiguous or inferential materials, each dependent upon the same unproved assumption, can collectively be elevated into proof of the foundational fact itself. Corroboration necessarily contemplates evidence which lends independent support to the fact sought to be established. Mere plurality of materials does not cure the absence of the essential evidentiary link.

119. The fundamental fact which the Revenue was required to establish in the present case was not merely that different prices were discussed, quoted or recorded at different stages, but that the difference between such prices represented consideration which was actually paid by the purchasers and received by the assessee outside its regular books of account.

120. The loose sheets and internal sales records containing expressions such as "Actual Price", "Final Price", "Target Rate" or similar descriptions may undoubtedly indicate that different prices were contemplated, quoted, negotiated or recorded at different stages of the sales process. However, such documents, by themselves, do not record that the difference between the initial price and the finally recorded consideration was received by the assessee in cash.

121. The expression "Actual Price" appearing in an internal sales document cannot be construed divorced from the commercial setting in which such documents are prepared. Depending upon the context, it may represent an initial quotation, target price, benchmark price, indicative selling rate or internal

expectation before negotiations with the customer. The mere nomenclature employed in an internal document cannot, without corroborative evidence, establish that the amount mentioned therein was the consideration actually realised from the purchaser.

122. Significantly, the documents relied upon by the AO do not disclose the date on which the alleged cash was paid, the purchaser who made such payment, the person who received it on behalf of the assessee, the place or mode of delivery, or the manner in which such cash was thereafter accounted for, deployed or utilised. No corresponding cash receipt, acknowledgement, side agreement, parallel ledger or purchaser confirmation has been brought on record.

123. Thus, what emerges from the seized material is, at the highest, the existence of two different price figures. The further conclusion that the difference between those figures physically changed hands in cash is an inference drawn by the AO. Such material could undoubtedly constitute a basis for further purchaser-wise investigation, but the difference between two price figures cannot, without something more, constitute proof of actual receipt of the differential amount in cash.

124. The Revenue has also sought to invoke the statutory presumptions u/s.132(4A) and 292C of the Act. There is no dispute that the said provisions permit certain rebuttable presumptions concerning ownership of documents found in possession or control of a person during search, truth of the contents thereof and the handwriting or signature appearing thereon. However, the statutory presumption operates in relation to the contents actually recorded in the document. It cannot be extended to a fact which the document itself does not state. Even assuming that the loose sheets belonged to the assessee and that the price figures recorded therein were correctly reproduced, the presumption cannot be stretched to hold that the difference between those

figures necessarily represented cash consideration received outside the books when the document contains no such recital.

125. In other words, the presumption as to the truth of the figures recorded in a document and the inference sought to be drawn regarding the commercial character of the difference between those figures are two distinct matters. Sections 132(4A) and 292C of the Act cannot be employed to insert into a document a transaction which the document itself does not record.

126. We are, therefore, unable to accept the contention of the Revenue that the mere juxtaposition of "Actual Price" and "Final Price" establishes the receipt of cash differential. Such a conclusion presupposes that the former figure necessarily represented the amount actually realised and that the latter represented only the accounted component. That assumption constitutes the very fact which the Revenue was required to establish by evidence and cannot be treated as proved merely because one of the figures was described as "Actual Price".

127. Considerable reliance was placed by the Ld.DR upon the statement of Shri Vijay Shyam to contend that discount up to 5% was ordinarily permissible and, consequently, any reduction exceeding 5% necessarily represented cash received from the purchaser. It was argued that the AO had adopted a fair and conservative approach by allowing 5% discount and treating only the balance differential as unaccounted receipt. We are unable to subscribe to the aforesaid proposition.

128. Neither any provision of the Act nor any independent commercial or documentary material has been brought to our notice which would establish 5% as an immutable dividing line between a genuine commercial discount and unaccounted cash consideration. No resolution of the Board of Directors, binding pricing policy, customer agreement or contemporaneous record has

been identified to establish that the assessee was legally or commercially prohibited from granting discount beyond 5%.

129. Even assuming that an internal guideline contemplated discount ordinarily not exceeding 5%, departure from an internal pricing guideline cannot, ipso facto, result in undisclosed taxable income. The Revenue was still required to establish that the excess reduction in a particular transaction corresponded to an amount actually received from the concerned purchaser outside the books. It cannot be ignored that the price of a residential apartment may depend upon several commercial variables, including the floor, orientation, view, location within the project, stage of construction, timing of booking, prevailing demand, payment terms, bulk booking, repeat-customer relationship, referral concession, early-payment incentive, market conditions, inventory position and liquidity requirements of the developer. The assessee had also placed reliance upon commercial disruptions in the real-estate sector and the necessity of offering discounts for liquidation of inventory. The AO has not demonstrated that these explanations were factually incorrect or commercially impossible in relation to the transactions under consideration.

130. A general statement of an employee regarding an ordinary pricing practice cannot be converted into an irrebuttable rule that every transaction involving a discount exceeding 5% necessarily contains a corresponding cash component. Before applying such formula, the AO was required to establish, transaction-wise, that the concerned purchaser actually paid the alleged differential amount in cash. No such purchaser-wise verification has been carried out. No purchaser has admitted payment of cash. Nor has any customer-specific document been identified showing that the precise reduction beyond 5% was received by the assessee outside the books. In our considered view, therefore, the 5% methodology does not quantify an independently established undisclosed receipt; rather, it first presumes the existence of such receipt and thereafter proceeds to quantify the presumption. Such methodology cannot furnish the foundational evidence necessary for making the addition.

131. The Ld. DR further contended that the Buyer Abstract Analysis Reports and Excel workings recovered from the pen drive of Shri Vijay Shyam constituted primary incriminating material and, consequently, the impugned addition could not be characterised as a post-search estimation. Even if the provenance of such reports and workings is accepted, their evidentiary value necessarily depends upon what they actually record. A computational document comparing different rates does not become evidence of actual receipt of cash merely because it was discovered during search. The Buyer Abstract Analysis Reports do not record delivery or receipt of cash, nor do they identify the person who allegedly paid or received the cash. They essentially constitute an analysis or comparison of different price figures. The conclusion that the difference exceeding 5% represented cash consideration continues to rest upon the disputed employee statement and the assumption adopted by the AO.

132. The Revenue's contention that the quantification is reasonable because it is arithmetically derived from the Buyer Abstract Analysis Reports also overlooks an important distinction between existence of undisclosed income and quantification of undisclosed income. Once the factum of undisclosed receipt is established through reliable material, estimation may, in an appropriate case, be resorted to for determining its quantum. Estimation, however, cannot be employed to establish the very existence of the receipt. Mathematical precision in computation cannot validate an unproved factual premise.

133. The Ld. DR also relied upon the statement of the software implementation consultant to establish that the ERP/CRM system permitted alteration of the sale price subsequent to booking of a flat. The evidence, in our view, establishes no more than the technical capability of the software. The existence of an editing facility cannot, by itself, establish that the facility was actually used for suppressing cash receipts. Post-booking alterations may arise for several legitimate commercial reasons, including renegotiation, cancellation and

rebooking, modification of payment schedules, grant of additional discount, correction of erroneous entries, change in specifications or settlement of customer disputes. For the technical capability of the ERP system to acquire incriminating character, the Revenue was required to establish a nexus between an identified alteration in the system and a corresponding receipt of cash. No audit trail has been brought to our notice demonstrating that a higher concluded sale consideration was reduced in the ERP system after receipt of a specific cash amount. No purchaser has stated that a higher price was originally agreed, that a portion thereof was thereafter paid in cash and that the recorded ERP price was correspondingly reduced. Technical capability cannot be equated with proof of actual misuse. The Ld. CIT(A), in our view, was justified in declining to draw such inference.

134. As regards the WhatsApp communications, the Ld. DR contended that the chats were not relied upon in isolation but constituted corroborative material when read with the loose sheets, ERP data and statements of employees. For the purposes of deciding the present appeal, we do not consider it necessary to enter into the wider question regarding the admissibility or technical certification of the electronic material. Even proceeding on the assumption that the WhatsApp communications were authentic, properly retrieved and capable of being considered in income-tax proceedings, their evidentiary value must depend upon what the communications actually establish.

135. On examination, the communications referred to in the record appear to relate to enquiries, negotiations or discussions regarding the possibility of a cash component. They do not record a completed payment by any identified purchaser. There is no communication acknowledging receipt of a specified cash amount, recording its date of delivery, identifying the person receiving the amount or explaining its subsequent utilisation.

136. We are of the considered opinion that a discussion regarding the possibility or mode of payment cannot, without further evidence, be equated

with proof that such payment was ultimately made. The characterisation of these communications as "corroborative" also does not carry the Revenue's case further. Corroboration presupposes a primary fact which is capable of receiving independent support. Where the actual receipt of cash itself remains unproved, communications indicating negotiations or enquiries regarding cash cannot bridge the evidentiary gap between discussion and completed payment. At the highest, they reinforce a suspicion that cash was discussed in the sales environment; they do not establish that the impugned amount was actually received by the assessee.

137. The Revenue has placed substantial reliance upon statements recorded from five employees and contended that consistency in their statements established a standardised modus operandi. It was further submitted that the employees were confronted with seized material, that the search proceedings were conducted in an orderly manner, that the panchanamas did not record any allegation of coercion and that no contemporaneous complaint was made. There is no dispute that a statement recorded u/s.132(4) of the Act constitutes relevant evidence. At the same time, neither section 132(4) of the Act nor the general principles governing admissions render every statement conclusive and incapable of explanation. An admission is undoubtedly an important piece of evidence, but the weight to be attached thereto depends upon its nature and clarity, the knowledge and capacity of the maker, the circumstances in which it was made, the extent of corroboration available and the explanation subsequently offered. The absence of an allegation of coercion in the panchanama may be a relevant circumstance while considering the allegation concerning the manner in which the search was conducted. It does not, however, establish the substantive truth of every answer recorded during search. Likewise, orderly conduct of search proceedings does not dispense with the requirement of testing the statements against objective and transaction-specific evidence.

138. In the present case, the employees furnished retractions/explanatory affidavits after copies of their statements were made available, and the Managing Director is also stated to have furnished clarification during the search proceedings. Once sworn affidavits disputing or explaining the earlier statements were placed on record, it was open to the Investigation Wing or the Assessing Officer to re-examine the deponents, confront them with their affidavits and require them to explain the documents relied upon by the Revenue. Admittedly, no such exercise was undertaken. Nor has independent evidence been brought on record demonstrating that the affidavits were false.

139. We do not consider it necessary to return any categorical finding as to whether the original statements were obtained under coercion. Even if the statements are treated as voluntary and are retained in evidence in their entirety, they essentially constitute general statements regarding an alleged sales practice. They do not identify the particular purchasers, dates, cash amounts and recipients constituting the alleged unaccounted receipts of Rs.1,76,09,243/- for the relevant previous year. Thus, the decisive question is not merely whether the assessee conclusively established coercion. The more fundamental issue is whether, after the statements were disputed, there existed independent material establishing actual receipt of the impugned amount during the relevant previous year.

140. We find that no identified purchaser has admitted payment of cash; no buyer-wise cash account has been found; and no corresponding receipt, asset, investment or expenditure has been traced. Consequently, the general statements of employees, even if taken into consideration, cannot fill every missing link in the alleged transactions or validate the mechanical application of the 5% formula.

141. The reliance placed by the Ld.DR upon Surjeet Singh Chhabra v. Union of India (supra) does not materially advance the case of the Revenue. The said decision arose in the context of a confession under the customs law and turned

upon the particular nature and circumstances of the admission therein. It cannot be understood as laying down a universal proposition that every statement recorded during a search under the Income-tax Act, irrespective of the identity and knowledge of its maker, contents thereof, subsequent retraction and absence of corroboration, constitutes conclusive proof of a quantified undisclosed receipt.

142. Likewise, the decision in B.Kishore Kumar v. DCIT (supra) is distinguishable on facts. That case involved a clear and categorical admission by the assessee himself regarding undisclosed income, supported by printouts and other material, and the admission was not displaced by a prompt and substantiated retraction. In the case before us, the Revenue predominantly relies upon statements of employees concerning an alleged general practice; such statements were subsequently disputed; and no transaction-specific evidence has been brought on record proving the cash receipts quantified by the AO. A decision rendered in the context of an unequivocal admission by the assessee himself, corroborated by incriminating material, cannot be mechanically applied to general and disputed statements of employees.

143. The Ld. CIT(A) has also referred to the principles emanating from Mehta Parikh & Co. v. CIT and CIT v. Daulat Ram Rawatmull. In the context of the present case, the relevance of those principles is that sworn factual assertions made in the affidavits could not simply be ignored without examining the deponents or bringing contrary material on record. The affidavits may not, by themselves, conclusively establish the assessee's case; nevertheless, once they formed part of the evidentiary record, they required objective consideration. The failure to undertake such examination materially diminishes the weight sought to be placed exclusively upon the original statements.

144. The Ld. DR contended that absence of seizure of physical cash or identification of its subsequent utilisation could not disprove receipt of unaccounted consideration. However, the order of the Ld.CIT(A) cannot be read

as resting upon non-recovery of physical cash alone. The absence of cash is only one circumstance amongst several other evidentiary deficiencies, namely absence of parallel books, buyer-wise cash records, purchaser confirmations, cash receipts, side agreements, money trail, unexplained investments or expenditure, coupled with acceptance of the regular books and registered sale documents. Where an extensive search of the business premises, project sites and residential premises of directors and employees does not yield either the alleged cash or any reliable record evidencing its receipt or application, and where the entire quantification proceeds from an assumed price differential, absence of any corresponding money trail assumes considerable evidentiary significance.

145. We find that the Revenue has neither demonstrated that the alleged cash receipts were deployed for unaccounted payments to landowners, contractors, suppliers or other parties connected with the projects nor identified any corresponding undisclosed investment or expenditure in the hands of the assessee, its directors or connected persons. We are aware that proof of utilisation is not a condition precedent where actual receipt of undisclosed consideration stands otherwise established by cogent evidence. Its significance in the present case arises because the primary factum of receipt itself remains unestablished. Where neither the source-side evidence, namely payment by purchasers, nor the destination-side evidence, namely receipt, possession or utilisation by the assessee, is available, the conclusion of actual receipt becomes substantially inferential.

146. It is also an undisputed factual position that the regular books of account were not rejected u/s.145(3) of the Act. No material defect in the method of accounting has been demonstrated. Nor has the AO established any mismatch between the final consideration reflected in the ERP system, customer agreements, registered sale deeds and banking receipts.

147. We find that the AO has substantially accepted the books for determining turnover, expenditure and business results, but has selectively substituted the sale consideration by adopting an assumed price based upon the impugned methodology. We do not propose to lay down any absolute proposition that an addition towards unaccounted receipt can never be made unless the books are formally rejected. Where direct and reliable evidence establishes receipt outside the books, an addition may be permissible notwithstanding absence of formal rejection. However, where the AO seeks to substitute documented transaction values with an estimated sale consideration and there is no direct evidence of additional receipt, acceptance of the books and absence of identified defects therein assume considerable significance. An estimated selling price cannot displace the consideration evidenced by contemporaneous transactional documents merely because, in the opinion of the AO, a higher price ought to have been realised. Pricing of an individual residential unit is fundamentally a matter of commercial judgment and business expediency. In the absence of tangible evidence demonstrating suppression of consideration, the AO cannot substitute his perception of an appropriate selling price for the price actually negotiated by the assessee. The principle noticed in Fort Projects (P.) Ltd. v. DCIT (supra) is relevant to this limited extent.

148. We find that the methodology adopted by the AO also suffers from indiscriminate extrapolation. Different purchasers, projects, units and periods may be governed by materially different commercial circumstances. Even if seized material created an adverse inference in relation to a particular identified transaction, such inference could not automatically be extrapolated to unrelated transactions unless a rational nexus was demonstrated. The AO has applied a standard formula across transactions without first identifying seized material evidencing actual receipt of cash in each transaction or establishing a representative pattern on the basis of proved transactions. This brings us to an important distinction. There is a fundamental difference between estimation of the quantum of an established undisclosed receipt and establishing the existence of an undisclosed receipt through estimation. Where reliable

evidence establishes that an undisclosed business activity or receipt existed but its exact quantum cannot be determined, estimation may, depending upon the facts, be permissible. Estimation cannot, however, be employed to first presume that an undisclosed receipt existed and thereafter quantify that very presumption. The machinery of estimation cannot cure absence of foundational evidence concerning the taxable event itself.

149. In the present case, the AO has not first established through cogent material that the assessee actually received on-money from identified purchasers and thereafter proceeded to estimate its quantum. On the contrary, the existence of on-money itself has been inferred from price variations, and the same inference has thereafter been subjected to a mathematical formula. The resultant figure may possess arithmetic precision, but arithmetic precision cannot substitute evidentiary foundation.

150. Another significant aspect of the matter is that not even a single purchaser has been shown to have admitted payment of cash over and above the consideration disclosed in the registered documents. The AO has not identified any purchaser who stated that he or she paid on-money to the assessee, nor does the assessment order disclose purchaser-wise examination establishing such payment. Where the allegation is that the consideration recorded in registered documents and regular books does not represent the true consideration and that a portion thereof passed outside the books, some material concerning the payer, recipient, amount, date, manner of payment or other circumstance evidencing movement of the additional consideration would ordinarily be expected. No buyer-wise statement of alleged cash consideration has been identified; no cash receipts or acknowledgements have been recovered; no side agreements recording consideration different from the registered consideration have been found; no parallel set of books or cash ledger recording collection of on-money has been brought on record; and no diary, register or electronic record evidencing systematic receipt and accounting of unrecorded consideration has been identified. The absence of evidence from

the very persons from whom the alleged unaccounted consideration is stated to have emanated assumes considerable significance, particularly when the other materials relied upon by the Revenue do not independently establish completed cash transactions.

151. Where the Revenue seeks to establish that the apparent consideration reflected in the regular books and registered documents is not the real consideration and that an additional amount has been received outside the books, the burden of establishing such fact lies upon the Revenue. Such burden need not necessarily be discharged only through direct evidence. Circumstantial evidence and the doctrine of human probabilities may undoubtedly be employed. Nevertheless, the circumstances relied upon must constitute a credible and coherent chain from which the conclusion sought to be drawn reasonably follows. The doctrine of human probabilities is a rule for appreciation of evidence; it cannot be invoked to dispense altogether with evidence of the foundational transaction. Even the test of preponderance of probabilities presupposes existence of primary facts and surrounding circumstances from which the asserted conclusion can reasonably emerge. Probability cannot become a substitute for evidence where the fundamental fact of receipt itself remains unproved.

152. In the present case, material links in the chain sought to be constructed by the AO are conspicuously absent. There is no identification of the payer of the alleged cash; no purchaser confirmation or admission; no contemporaneous cash receipt; no parallel agreement; no duplicate books recording cash consideration; no buyer-wise cash ledger; no corresponding unaccounted cash or assets; and no evidence of deployment of the alleged receipts.

153. Viewed cumulatively, therefore, the conclusion that the assessee actually received the sum of Rs.1,76,09,243/- does not reasonably and necessarily flow from the material relied upon by the AO.

154. We further find that the Ld.CIT(A) has recorded a categorical finding of fact that, notwithstanding the extensive search conducted at the business premises, project sites and residential premises of the directors and employees, no material was discovered directly establishing receipt of unaccounted cash consideration from purchasers of flats. Significantly, neither in the assessment order nor before us has the Revenue identified any seized material recording an actual purchaser-wise receipt of cash over and above the consideration accounted for in the regular books. The Revenue has also not demonstrated that the Ld.CIT(A) overlooked any material which conclusively or reasonably establishes such receipt. No perversity has been shown in the findings that there was no buyer-wise evidence, no purchaser admission, no parallel books and no corresponding evidence regarding receipt, possession or application of the alleged cash.

155. We also agree with the Ld.CIT(A) that the materials relied upon by the AO, at the highest, furnish grounds for suspicion and further investigation. Once such suspicion arose, however, it was incumbent upon the Revenue to carry the enquiry to its logical conclusion by bringing on record evidence having a direct and proximate nexus with actual unaccounted receipts. An assessment of undisclosed income cannot remain at the stage of suspicion. An unverified hypothesis cannot acquire the character of taxable income merely because an arithmetical formula is applied to figures found in internal documents.

156. We may clarify that our conclusion does not rest upon the absence of any single category of evidence. Non-recovery of physical cash, viewed independently, may not be decisive. The difficulty for the Revenue in the present case is the simultaneous absence of purchaser evidence, receipt evidence, parallel accounting records, money trail, asset trail and evidence of utilisation, coupled with the absence of any document recording completed cash receipt. The loose sheets record price variations but not cash receipt. The Buyer Abstract Analysis Reports quantify price differences but do not record payment. The ERP evidence demonstrates technical capability but not actual

manipulation for concealment of cash. The WhatsApp communications indicate discussions or negotiations but not completed payments. The employee statements speak of an alleged general practice but do not establish purchaser-wise receipt of the impugned amount. The 5% formula quantifies an assumption but does not independently prove the assumption. Thus, these materials are not independent evidentiary links converging upon a proved fact of receipt. To a substantial extent, they are different manifestations of the same underlying inference drawn from variation in sale prices. We are of the considered opinion that a collection of assumptions does not acquire the character of proof merely by repetition across different forms of material.

157. Upon an independent and cumulative consideration of the entire material, we are of the considered view that the Revenue has failed to establish a direct and proximate nexus between the materials relied upon by the AO and the alleged receipt of unaccounted cash consideration of Rs.1,76,09,243/- by the assessee during the relevant previous year. The material may have justified further investigation. It may also have generated suspicion regarding the possibility of cash transactions. However, suspicion of a transaction and proof of a transaction occupy distinct evidentiary fields. Before an amount can be brought to tax as an actual undisclosed receipt, there must exist material reasonably establishing that such receipt, in fact, accrued or was received by the assessee.

158. In the present case, the foundational fact of actual receipt remains unproved. The AO has proceeded from price variation to presumed cash receipt and thereafter from presumed cash receipt to quantified undisclosed income. Such reasoning effectively employs estimation not merely for determining the quantum of established income but for establishing the very existence of income. In our considered opinion, such an approach cannot be sustained. We accordingly find no infirmity in the conclusion reached by the Ld.CIT(A). The findings recorded by the Ld.CIT(A) are based upon a proper appreciation of the evidentiary material and have not been displaced by the Revenue by bringing

any cogent contrary material before us. We therefore concur with the Ld.CIT(A) that the AO failed to discharge the burden of establishing actual receipt of unaccounted cash consideration by the assessee. Accordingly, the order of the Ld.CIT(A) deleting the addition of Rs.1,76,09,243/- towards alleged unaccounted cash receipts/on-money from sale of flats is upheld. We find no perversity, factual error or legal infirmity in the impugned finding warranting our interference. The grounds raised by the Revenue on this issue are, therefore, dismissed.

159. We shall now advert to the next substantive issue arising in the Revenue's appeal, namely, the deletion by the Ld.CIT(A) of the addition of Rs.18,87,00,000/-, representing the alleged unaccounted cash consideration stated to have been paid by the assessee in connection with the acquisition of immovable property situated at Vadapalani.

160. The genesis of the impugned addition lies substantially in certain handwritten notings appearing in a notebook found and seized during the course of search from the residential premises of the vendor, Shri A. Gunasekaran. The relevant page contained, inter alia, the computation "14.5 × 3.70 = 53.65", followed by certain figures appearing under the captions "Cheque", "Cash" and "Balance".

161. The AO construed the aforesaid computation as representing the sale of 14.5 grounds of land at the rate of Rs.3.70 crore per ground, aggregating to Rs.53.65 crore. Proceeding further, the figure of Rs.18.87 crore appearing against the expression "Cash" was treated as representing unaccounted cash consideration actually paid by the assessee to the vendor over and above the consideration disclosed in the registered instrument. It is this inference which ultimately culminated in the impugned addition.

162. The Ld.DR, supporting the assessment order, submitted that the seized notebook constituted a contemporaneous record maintained by the vendor

himself in relation to the very same property transaction. It was emphasised that the cheque figures appearing in the notebook substantially corresponded with the consideration reflected in the registered sale deed and with the banking transactions. The Ld. DR further pointed out that a photograph of the very same page of the notebook was also recovered from the mobile phone of Shri A. Gunasekaran. According to the Revenue, these surrounding circumstances lend sufficient authenticity to the document and justify the inference that the figure recorded against "Cash" represented cash consideration actually received by the vendor.

163. We have given our thoughtful consideration to the rival submissions and carefully perused the material available on record. Authenticity of the document and truth of the inference drawn therefrom are distinct matters. At the outset, we may observe that there is no serious controversy regarding the authorship of the seized notebook or its nexus with the Vadapalani property transaction. The assessee has not seriously disputed that the relevant notings were made by Shri A. Gunasekaran or that the computation related to the subject property. That, however, does not conclude the matter. The real controversy before us is not whether the document is genuine, but what precisely the disputed figure recorded therein signifies, and, more importantly, whether the Revenue has established that the sum of Rs.18.87 crore represented money which had actually passed from the assessee to the vendor. In our considered view, these are two conceptually distinct evidentiary enquiries. Proof of the existence, authorship and authenticity of a document cannot, by itself, be equated with proof that every numerical entry appearing therein represents a transaction which had actually fructified. A genuine commercial record may contain completed transactions as well as proposed consideration, tentative computations, negotiations, anticipated receipts, outstanding amounts, estimates or amounts expected to be realised in future. The authenticity of the writing does not dispense with the necessity of determining the true character of each material entry contained therein. Photograph recovered from vendor's mobile phone is not independent corroboration. Much emphasis has been

placed by the Revenue upon the fact that a photograph of the relevant page was also found stored in the mobile phone of Shri A. Gunasekaran. In our view, this circumstance takes the Revenue's case no further insofar as the actual payment of Rs.18.87 crore is concerned.

164. We find that the photograph is merely an electronic reproduction of the very same handwritten page. It undoubtedly corroborates the existence of the page and may reinforce the conclusion that the vendor considered the notation sufficiently relevant to preserve an image thereof. However, the photograph does not constitute an independent evidentiary source establishing the actual movement of cash. A physical document and its photographic reproduction do not become two independent pieces of evidence concerning the underlying transaction merely because they exist in two different forms. Repetition or duplication of the same primary material cannot substitute for independent corroboration of the transaction sought to be inferred therefrom. Thus, while the photograph may corroborate the authenticity of the notebook, it does not corroborate the Revenue's interpretation that Rs.18.87 crore was actually paid in cash.

165. The next limb of the Revenue's argument is that certain cheque entries appearing in the notebook correspond with identifiable banking transactions and, therefore, the figure appearing against "Cash" should necessarily be treated as an equally accomplished transaction. We are unable to subscribe to such an absolute proposition. It is undoubtedly true that correspondence between the cheque entries and the banking records lends considerable credibility to those particular entries and also lends general authenticity to the document. But the evidentiary value of a particular entry must ultimately depend upon the nature of that entry and the corroborative material available in relation thereto.

166. The fact that one component of a handwritten computation is independently established by bank records does not inexorably lead to the

conclusion that every other component of the same computation must also represent a completed payment. The possibility that one figure represented an amount already received while another represented an anticipated, negotiated or outstanding amount cannot be ruled out merely because both appear on the same page. In other words, the banking trail corroborates the cheque component. There is no corresponding material corroborating the alleged cash component.

167. The Ld. DR further contended that the seized document must be read as a whole and that the assessee cannot rely upon those portions which support the accounted transaction while disowning the cash component. There can be no quarrel with the general proposition that a document ought ordinarily to be appreciated as a whole rather than in isolated fragments. However, applying that principle to the present case does not advance the Revenue's case. Reading the document as a whole necessarily requires us to take into account not merely the words "Cheque" and "Cash", but also the separate figure described as "Balance", the overall structure of the computation and, importantly, the explanation furnished by the very author of the document. The existence of separate figures under the heads "Cheque", "Cash" and "Balance" is reasonably capable of being understood as recording the components of a contemplated or expected financial settlement. It does not, by itself, establish that each of those components had already been discharged.

168. We are of the considered view that the rule that a document must be read as a whole cannot be enlarged into a rule that every entry appearing in the document must necessarily be assigned identical evidentiary character irrespective of its language, surrounding circumstances and availability or absence of independent corroboration.

169. A circumstance of considerable importance, which in our opinion cannot be lightly brushed aside, is that Shri A.Gunasekaran himself was examined during the course of search proceedings u/s.132(4) of the Act. He admitted the

authorship of the notebook and acknowledged that the notation related to the Vadapalani property transaction. However, insofar as the disputed figure recorded against "Cash" was concerned, he explained that the amount represented a sum which he expected to receive and not an amount which had actually been received by him. Thus, this is not a case where the assessee, after discovery of an incriminating document, subsequently invented an explanation during assessment proceedings. The explanation regarding the nature of the disputed cash figure emanated from the author of the document himself, and that too in a sworn statement recorded in the course of search proceedings.

170. The Ld. DR sought to characterise the vendor's explanation as self-serving and inherently improbable having regard to the precision with which the figures had been recorded. We are unable to accept that precision of arithmetic, by itself, establishes actual payment. Commercial negotiations, expected consideration, proposed settlements and outstanding amounts may all be recorded with mathematical precision. Precision of the figure may establish deliberation; it does not necessarily establish performance. If the AO entertained serious doubt regarding the explanation furnished by Shri A.Gunasekaran, nothing prevented him from pursuing the enquiry further. The vendor could have been re-examined and confronted with the Revenue's interpretation. His cash holdings and subsequent utilisation could have been investigated. The dates and circumstances of the alleged receipt could have been ascertained. The Revenue could have examined the source from which the assessee allegedly generated Rs.18.87 crore, the person through whom such substantial cash was arranged, the manner of transportation and delivery, and the subsequent deployment or utilisation of the alleged cash by the recipient. Conspicuously, no such exercise was undertaken.

171. We also find considerable force in the assessee's contention that the Revenue has relied upon the statement of Shri A.Gunasekaran insofar as it establishes the identity of the property, the transaction and the cheque

consideration, but has rejected his explanation regarding the disputed cash figure. There is no legal prohibition against accepting one portion of a statement and rejecting another, provided there exists cogent material warranting such differential treatment. However, such selective appreciation cannot be founded merely upon convenience.

172. In the present case, the cheque entries are supported by independent banking evidence. The disputed cash entry, on the contrary, is accompanied by the author's categorical explanation that the amount was expected but not actually received. No independent evidence has been brought on record to falsify that explanation. Therefore, the rejection of the author's explanation merely because another interpretation of the notation would sustain the proposed addition cannot, in our considered view, constitute a satisfactory evidentiary basis for an addition of such magnitude.

173. As against the aforesaid third-party notation, the assessee placed on record the registered sale deed, the corresponding banking records and the regular books of account. The acquisition of the property, together with the stamp duty and registration expenditure, stood duly recorded in the books, and the consideration disclosed in the registered instrument was supported by identifiable banking transactions. We are conscious that the consideration recited in a registered instrument is not sacrosanct and that the Revenue is fully empowered to establish payment of on-money by adducing reliable material. A registered sale deed cannot operate as an impregnable shield against evidence demonstrating that additional consideration had actually passed. However, the converse is equally true. Until displaced by cogent evidence, a registered instrument read together with the banking trail and contemporaneous books of account constitutes affirmative evidence of the transaction recorded therein. The question, therefore, is whether the Revenue has brought on record material sufficiently reliable to displace such contemporaneous evidence. On the facts before us, we find that it has not.

174. Another material feature of the case is the complete absence of any corresponding evidence from the premises, books, electronic devices or financial records of the assessee indicating payment of Rs.18.87 crore in cash. No cash book, parallel ledger, voucher, acknowledgement, receipt, diary, loose sheet or electronic communication belonging to the assessee evidencing such payment was found. No source capable of generating such substantial unaccounted cash was identified. There is no finding as to the date or dates on which the alleged payment was made. There is no evidence as to the person who arranged the cash, the person who transported it, the person who delivered it, the place at which delivery occurred or the person who received it on behalf of the vendor. Equally, no investigation has established the subsequent utilisation, investment or deployment by the vendor of the alleged sum of Rs.18.87 crore. Considering the magnitude of the alleged payment, the absence of any trace whatsoever regarding its source, movement, delivery, receipt or utilisation assumes substantial evidentiary significance.

175. The Ld.DR submitted that the computation "14.5 × 3.70 = 53.65" clearly demonstrated that Rs.53.65 crore represented the agreed consideration for the land and, consequently, the cash component necessarily formed part of the total consideration. Even assuming, for the sake of argument, that Rs.53.65 crore represented the amount which the vendor expected to realise at Rs.3.70 crore per ground, it does not automatically follow that every component of that contemplated consideration was actually paid. There exists a fundamental distinction between consideration contemplated, consideration demanded, consideration negotiated, consideration expected and consideration actually paid. Section 69 of the Act operates in relation to an investment actually made. It does not bring to tax a proposed, anticipated or unpaid component of consideration merely because such amount finds mention in a third-party document. The foundational fact which the Revenue was required to establish was therefore not merely the existence of the notation but the actual passing of Rs.18.87 crore from the assessee to the vendor during the relevant previous year. That foundational fact remains unproved.

176. The Revenue has also sought to invoke the statutory presumptions contemplated u/s.132(4A) and 292C of the Act. We have carefully considered the same. The notebook in question was admittedly found not from the possession or control of the assessee but from the premises of Shri A.Gunasekaran. The immediate statutory presumption, therefore, operates in relation to the person from whose possession or control the document was found. It may legitimately support the inference that the notebook belonged to him, that the handwriting was his and that the entries were made by him. However, the presumption cannot automatically be extended to establish against another person that every contemplated transaction appearing in the document was in fact performed by such other person. More importantly, the statutory presumption is rebuttable. Even assuming that the contents of the document are taken into consideration while framing the assessment of the assessee, the character and meaning of the entries must necessarily be understood in the context of the explanation furnished by their author. If the author states on oath that the figure recorded against "Cash" represented an amount expected to be received but which was not actually received, the presumption regarding the truth of the contents cannot, without anything further, be employed to transform an anticipated receipt into an accomplished payment. The statutory presumption facilitates proof. It does not dispense with the necessity of determining what the document actually records.

177. In our considered opinion, the assessee sufficiently discharged the evidentiary burden arising from the third-party notation. The assessee produced: the registered conveyance evidencing the transaction; the regular books of account recording the acquisition; the banking records supporting the disclosed consideration; and the sworn statement of the author of the seized document explaining that the disputed amount represented an expected receipt and not cash actually received. Once these materials were brought on record, the evidentiary burden shifted back to the Revenue to demonstrate, through cogent and independent material, that the explanation was false and that the

alleged cash had in fact changed hands. We find that no such evidence has been brought before us.

178. The Ld.DR placed considerable reliance upon the judgment of the Hon'ble jurisdictional High Court in Smt.N.Saroja v. ACIT, TCA Nos.1395 to 1401 of 2009, judgment dated 18.03.2026, and submitted that the statutory presumptions arising from seized loose sheets operate in favour of the Revenue and that the burden squarely rests upon the assessee to rebut the entries contained therein. We have carefully considered the said binding precedent. In our considered view, the ratio thereof does not warrant restoration of the impugned addition. In Smt.N.Saroja, the loose sheets in question were recovered from the premises of the assessee’s themselves. The entries were found to be contemporaneous with the transactions under consideration and were fairly corroborated by surrounding material. Significantly, while the assessees’ accepted those payments which stood reflected in their regular books, they denied the remaining entries and furnished only a vague explanation that the entries might have been written by their accountant. No cogent contemporaneous evidence was produced to rebut the statutory presumption. It was in that factual setting that the Hon'ble High Court held that the assessee’s had failed to discharge the burden cast upon them. We find that the factual matrix before us stands on an altogether different footing. Firstly, the notebook was not recovered from the assessee but from the premises of the third-party vendor. Secondly, the author of the notebook was identified and examined on oath. Thirdly, the author categorically explained that the disputed cash figure represented an amount expected to be received and not an amount actually received. Fourthly, the assessee produced the registered instrument, banking trail and books of account supporting the accounted consideration. Fifthly, no independent evidence corroborating the actual payment of Rs.18.87 crore in cash has been brought on record. Lastly, no money trail whatsoever has been established. Thus, the present case is not one of a bare or vague denial unsupported by evidence, as was found in Smt. N.Saroja (supra). The assessee's explanation is supported by the sworn statement of the very author

of the seized material and by contemporaneous statutory, accounting and banking records. We are therefore unable to accept the contention that Smt.N.Saroja concludes the controversy in favour of the Revenue.

179. The said judgment cannot be understood as laying down an inflexible proposition that every entry in every loose sheet, irrespective of the place from which it is recovered, the person who authored it, the explanation of such author and the availability or absence of corroborative evidence, constitutes conclusive proof against an assessee. The Hon'ble High Court itself attached significance to contemporaneity and fair corroboration. Equally, nothing in the judgment converts the presumptions u/s.132(4A) and 292C into irrebuttable presumptions. Accordingly, the reliance placed by the Revenue upon Smt.N.Saroja is distinguishable on facts and does not advance its case.

180. The reliance placed by the Ld.DR upon CIT v. T. Rangroopchand Chordia (supra) also does not carry the Revenue's case any further. There can be no dispute with the proposition that loose sheets and informal records may constitute relevant and admissible material when their contents are supported by independent evidence and surrounding circumstances. The difficulty, however, lies in applying that proposition to the disputed transaction before us. The cheque component of the seized notation is independently corroborated by banking transactions. The alleged cash component of Rs.18.87 crore is not. The Revenue cannot use the corroboration available for one class of entries as a substitute for corroboration of another materially different entry. When the principle relied upon by the Revenue is applied to the disputed cash transaction itself, rather than to the notebook in the abstract, the absence of corroborative evidence becomes apparent. We therefore find that this authority does not justify interference with the conclusion reached by the Ld.CIT(A).

181. On the contrary, the factual principle emerging from CIT v. P.V.Kalyanasundaram(supra) has greater application to the present controversy. There also, the issue concerned alleged additional consideration

in relation to an immovable property transaction, and the addition could not be sustained in the absence of sufficient corroborative evidence establishing actual payment of such additional consideration. The factual position before us is, if anything, stronger in favour of the assessee because the vendor himself has not admitted receipt of the disputed additional consideration. On the contrary, he has explained on oath that the figure represented an amount which he expected to receive.

182. The Ld.DR contended that the question of cross-examination was inconsequential because the notebook itself constituted independent documentary evidence. We are unable to accept the submission in the peculiar facts of this case. The central controversy is not the physical existence of the notebook. The controversy concerns the meaning to be assigned to the expression "Cash" and whether the corresponding figure represented actual receipt or merely an expected amount. The person most competent to explain the meaning of his own notation was its author, Shri A.Gunasekaran. Once the AO proposed to disregard the explanation furnished by the author and adopt an interpretation adverse to the assessee, the assessee's request for an opportunity to cross-examine the author assumed considerable significance. Admittedly, no such opportunity was afforded, nor do we find any cogent reason recorded for declining the request. The assessee was consequently deprived of an effective opportunity to test the interpretation sought to be placed by the Revenue upon third-party material. The denial of cross-examination therefore constitutes an additional procedural infirmity in the manner in which the material was utilised against the assessee. We may, however, hasten to add that our conclusion does not rest solely upon this procedural deficiency. Even dehors the issue of cross-examination, the addition is unsustainable on merits for want of evidence establishing actual payment of the disputed amount.

183. We further notice some lack of consistency in the record regarding the precise deeming provision under which the impugned addition has been made. At certain places, the amount has been characterised as unexplained

investment u/s.69 of the Act, whereas the order of the Ld.CIT(A) and certain grounds raised by the Revenue make reference to section 69A of the Act. In our view, this inconsistency assumes relevance because the foundational jurisdictional facts required for invoking the respective deeming provisions are materially different.

184. For invoking section 69 of the Act, there must first exist an investment made by the assessee which is either not recorded in the books or in respect of which the explanation regarding its nature and source is found unsatisfactory. The acquisition of the Vadapalani property itself is admittedly recorded in the regular books. What the Revenue alleges is an additional unrecorded investment of Rs.18.87 crore. Therefore, before calling upon the assessee to explain the source thereof, the Revenue must first establish the foundational fact that such additional investment was actually made. Section 69 of the Act cannot be invoked to presume the very existence of the investment which constitutes the jurisdictional fact for invoking the provision. In the present case, that foundational fact has not been established except by drawing an inference from the disputed third-party notation.

185. For section 69A of the Act to operate, there must be material establishing that the assessee is the owner of money, bullion, jewellery or other valuable article which is not recorded in the books of account. We find that no evidence before us establishes that the assessee owned or possessed unaccounted money of Rs.18.87 crore or that such money was thereafter transferred to the vendor. The notebook is evidence of a notation made by the vendor. The notebook itself is obviously not the "money" contemplated u/s.69A of the Act, nor can the notation, without further evidence, establish ownership of such money in the hands of the assessee. Thus, whether the addition is tested u/s.69 or section 69A of the Act, the foundational statutory requirement remains unfulfilled.

186. The Revenue's case, when reduced to its essential proposition, would require the assessee to establish that it did not pay Rs.18.87 crore in cash. Such a reverse burden cannot arise merely because a figure is found recorded in a document recovered from a third party, particularly where the author denies actual receipt; the registered instrument supports the disclosed consideration; the banking records correspond with the disclosed payments; the regular books record the acquisition; and no independent material evidences the alleged cash movement. The initial burden of establishing the taxable event must necessarily remain upon the Revenue.

187. The principle enunciated in K.P.Varghese v. ITO (supra) as rightly relied upon by the Ld.CIT(A) assumes relevance in this context. The assessee cannot be expected to discharge an impossible negative by demonstrating that an alleged unaccounted payment was never made when the Revenue itself has failed to establish the foundational fact of payment. Equally apposite is the principle flowing from Dhakeshwari Cotton Mills Ltd. v. CIT. It is well settled that income-tax proceedings are not fettered by the strict technical rules governing admissibility of evidence. Nevertheless, an assessment cannot be founded upon conjecture, surmise or suspicion, however strong such suspicion may appear. The seized notebook undoubtedly constituted relevant material and fully justified further investigation. But material sufficient to trigger an enquiry is not necessarily evidence sufficient to sustain an addition. The Revenue stopped at the stage of inference. It did not carry the investigation forward so as to establish the evidentiary chain connecting the notation with the actual source, movement, delivery, receipt and utilisation of Rs.18.87 crore. Suspicion generated by the seized material cannot, in the absence of such corroboration, be elevated into proof of actual payment.

188. We also find that the conclusion reached by the Ld. CIT(A) is essentially one arising from appreciation of evidence. For interference with such factual findings, the Revenue must demonstrate that material evidence was ignored, irrelevant material was relied upon, the conclusion is contrary to the record or

that the finding is otherwise perverse. We find that no such infirmity has been demonstrated before us. The fact that the cheque entries correspond with the banking transactions undoubtedly constitutes a relevant circumstance. The Ld.CIT(A) has not ignored that circumstance. However, corroboration of the cheque entries does not fill the evidentiary vacuum surrounding the alleged cash payment of Rs.18.87 crore. The Revenue has not produced any independent material capable of dislodging the categorical finding of the Ld.CIT(A) that actual payment of the alleged cash consideration remains unproved. We therefore find no justifiable reason to interfere with the deletion of the addition of Rs.18,87,00,000/-. Accordingly, the grounds raised by the Revenue on this issue stand dismissed.

189. Before parting with the Revenue's appeal, it would be appropriate to consider the two principal additions in their cumulative factual setting.

190. The first addition of Rs.1,76,09,243/-, representing alleged unaccounted cash receipts from sale of flats, was founded upon an assumed median rate, adoption of a commercially unsupported five per cent benchmark, general and disputed statements of employees, electronic conversations which did not establish consummated cash transactions and computational material which did not evidence actual receipt of money by the assessee.

191. The second addition of Rs.18,87,00,000/-, representing alleged unaccounted cash consideration for acquisition of the Vadapalani property, rests principally upon a notation appearing in a notebook recovered from a third-party vendor. The author of the document himself explained on oath that the disputed figure represented an expected amount and not cash actually received. No corresponding material was recovered from the assessee and no evidence was brought on record establishing the source, generation, movement, delivery, receipt or utilisation of the alleged cash. Thus, in both instances, the Revenue undoubtedly came across material warranting enquiry. What is absent, however, is the transaction-specific corroboration necessary to

convert suspicion into a sustainable finding of undisclosed income or investment.

192. The arguments advanced by the Ld.DR before us substantially reiterate the inferences drawn by the AO from the seized materials. They do not dislodge the categorical factual findings recorded by the Ld.CIT(A), nor do they bridge the evidentiary gaps identified hereinabove. It is trite that suspicion, howsoever grave, cannot take the place of proof. Equally, probabilities and surrounding circumstances are undoubtedly relevant in income-tax proceedings, but they must operate upon established foundational facts. Preponderance of probability is a standard for evaluating evidence; it is not a substitute for the existence of evidence itself. In the present case, the Revenue has established circumstances which may generate suspicion regarding possible cash dealings. It has, however, failed to establish by cogent, reliable and transaction-specific material that the assessee actually received the alleged unaccounted consideration from purchasers of flats or actually paid Rs.18.87 crore in unaccounted cash towards acquisition of the Vadapalani property. We therefore see no reason to interfere with the well-reasoned findings of the Ld.CIT(A).

193. In view of the foregoing discussion and upon an overall consideration of the entire material available on record, we uphold and confirm the order of the Ld. CIT(A) deleting:

i. the addition of Rs.1,76,09,243/- towards alleged unaccounted cash receipts arising from sale of flats; and

ii. the addition of Rs.18,87,00,000/- towards alleged unaccounted cash consideration stated to have been paid for acquisition of the Vadapalani property.

194. Consequently, all the substantive grounds raised by the Revenue challenging the deletion of the aforesaid additions, including the grounds

relating to the evidentiary value of the WhatsApp conversations, statements of employees, the seized notebook and the statutory presumptions u/s.132(4A) and 292C of the Act, are dismissed. The general and residuary grounds raised by the Revenue do not disclose any separate or independent issue requiring adjudication and are accordingly dismissed. The prayer of the Revenue for setting aside the order of the Ld.CIT(A) and restoring the additions made in the assessment order is rejected.

195. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the court on 18th August, 2026 at Chennai.

Sd/-	**Sd/-**
(मनु कुमार गिरि)	**(एस. आर. रघुनाथा)**
(MANU KUMAR GIRI)	**(S. R. RAGHUNATHA)**
न्यायिक सदस्य/**Judicial Member**	लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,
दिनांक/Dated, the 18th August, 2026.
Devadas

आदेश की प्रतिलिपि अग्रेषित/Copy to:
1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3.आयकर आयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF

DEVADAS GOPALANACHARY Digitally signed by DEVADAS GOPALANACHARY Date: 2026.08.18 15:53:21 +05'30'