IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: A : NEW DELHI

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
AND
SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER

ITA No.1533/Del/2021
Assessment Year: 2018-19

Anil Bala Goyal, 6/204, Tikonia, Belanganj, Agra 282004 PAN AAPPB5034N	vs.	Dy. Commissioner of Income-Tax, Central Circle, Ghaziabad 201002
(Appellant)		(Respondent)

ITA No.1536/Del/2021
Assessment Year: 2018-19

Maanya Goyal, 6/204, Tikonia, Belanganj, Agra 282004 PAN BLXPS7985K	vs.	Dy. Commissioner of Income-Tax, Central Circle, Ghaziabad 201002
(Appellant)		(Respondent)

ITA No.1534/Del/2021
Assessment Year: 2015-16

Yugank Goyal, 6/204, Tikonia, Belanganj, Agra 282004 PAN AHHPG4073H	vs.	Dy. Commissioner of Income-Tax, Central Circle, Ghaziabad 201002
(Appellant)		(Respondent)

ITA No.1808/Del/2021
Assessment Year: 2015-16

Dy. Commissioner of Income-Tax, Central Circle, Ghaziabad 201002	vs.	Yugank Goyal, 219092 ATS Advantage Tikonia Indirapuram Ghaziabad 201010 PAN AHHPG4073H
(Appellant)		(Respondent)

ITA No.1535/Del/2021
Assessment Year: 2018-19

Bankey Behari Goyal, 6/204, Tikonia, Belanganj, Agra 282004 PAN AASPG9180B	vs.	Dy. Commissioner of Income-Tax, Central Circle, Ghaziabad 201002
(Appellant)		(Respondent)

ITA No.1807/Del/2021
Assessment Year: 2017-18

Dy. Commissioner of Income-Tax, Central Circle, Ghaziabad 201002	vs.	Bankey Behari Goyal, 6/204, Tikonia, Belanganj, Agra 282004 PAN AASPG9180B
(Appellant)		(Respondent)

For Assessee :	Shri Sushil Kumar Maheswari, CA
Revenue For :	Shri P Praveen Sidharth, CIT-DR

Date of Hearing :	30.11.2022
Date of Pronouncement :	19.01.2023

ORDER

PER CHANDRA MOHAN GARG, J.M.

The above cross-appeals filed by the Assessee and Revenue are directed against the Order of the Ld. CIT(A)-4, Kanpur dated 25.08.2021 & 06.09.2021, for the A.Y's. 2015-16, 2017-18, 2018-19. Since common issues are involved in these appeals, these appeals were heard together and are being disposed of by this consolidated order.

ITA Nos. 1533 & 1536/Del/2021 For A.Y 2018-19

2. The grounds of appeals raised by assessee are identical read as under:-

> *1) a) Because upon due consideration of facts and in the circumstances of the case, the authorities below are highly unjustified in making and sustaining addition of Rs. 1,50,23,692 on account of wrong allegation of payment of on money for Purchase of Shop No. 387 in Habitat Centre Indirapuram, Ghaziabad. The addition made is arbitrary and is against the facts and circumstances.*

b) Because in spite of these being no material to suggest that such payment has been made, such addition of Rs. 1,50,23,692 has been made and sustained arbitrarily presuming that such payment has been made.

c) Because the assesse had never got the possession of the property and had not even claimed such amount as refund before the IRP. The addition has been made and sustained without consideration of overall facts and circumstances.

2) Because in any view of the matter the authorities below have erred in levying and sustaining tax us 115 BBE. Such levy is highly excessive and unreasonable.

3) Because while making the assessment the AO and while sustaining the addition the Id. CIT(A) made various observations / conclusion, which are contrary to facts.

4) Because the appellant denies liability of interest under the act.

5) Because the order appealed against in contrary to facts, law and principles of natural justice and in any view of matter deserves to be quashed.

6) Because the assessee craves leave to add, amend, modify or cancel all or any grounds of appeal.

3. The Ld. Representative both the sides agreed that in these two appeals sole ground of assessee has been based on identical facts and circumstances therefore we are taking up ITA No. 1553/Del/2021 Smt. Anil Bala Goyal case as a lead case.

4. The learned assessee representative (AR) submitted that the issue is squarely covered in favour of the assessee by the order of the Tribunal dated 10.10.2022 passed by ITAT Delhi Bench in the case of Smt. Shashi Yadav & Poonam Yadav vs. DCIT Central Circle Ghaziabad, in ITA No. 1123 & 1121/Del/2021 respectively for A.Y. 2018-19 arising out of the order of Ld. CIT(A) Kanpur-4 dated 12.08.2021. The Ld. AR explained that the additions in the present case as well as in the case of Smt. Shashi Yadav & Smt. Poonam Yadav has been based on so called incriminating material LP-70 & 71 found at the place of the assessee for the similar kind of shops. The Ld. AR drawing our attention towards para 90 to 95 of the Tribunal order (supra) submitted that the Tribunal categorically held that there was no corroborated evidence, no cross examination of

assessee's statement and no evidence that fair market value is higher than that recorded in the sale deed. The Ld. AR also pointed out that in the absence of such findings with supportive evidences, any addition made on the basis of presuming that the figures written on a loose sheet of paperbook is the fair market value of the property, would not be justified and against the law laid down by the various judgment of Hon'ble Supreme Court and High Court and order of the Tribunal including judgment of Hon'ble Supreme Court in the case CBI vs V C Shukla reported as (1998) 3 SCC 410.

5. Replying to the above the Ld. DR place strong reliance on the order of the A.O. as well as the Ld. CIT(A) and submitted that the incriminating material clearly revealed that the assessee has made payment of own money for purchase of shop no. 385 in the Habitat Centre Indirapuram, Ghaziabad therefore the addition may kindly be sustained. However he did not controvert that on the identical facts and circumstances the ITAT Delhi Bench in the cases of Smt. Shashi Yadav & Smt. Poonam Yadav vs.

DCIT (supra) has granted relief to the said assessee's and he could not show us any dissimilar for different facts and circumstances from the present appeals of Smt. Anil Bala Goyal and Maanya Goyal.

6. On a careful consideration of our submissions from the order of the ITAT Delhi Bench in the case of Smt. Shashi Yadav & Smt. Poonam Yadav vs. DCIT (supra) we observe that for the same A.Y. 2018-19 the identical issue has been decided in favour of the assessee with following observations and findings:-

> *90. AO has noted that during the course of search proceedings u/s 132 of the Act at the residential premises of Shri B. B. Goel at Indirapuram Habitat Centre, Ghaziabad, Pages 70 & 71 of Annexure – LP -1 was found and seized. The assessee was asked to submit the explanation as her name appeared on page 71 of the annexure. AO has noted that the aforesaid Annexure displayed the description of the Shop Nos. 387, 382 & 383 that were found to be in the name of family member of the assessee. It was further noted that Shop No.384 which was shown in the name of the assessee had mention about the figure of*

Rs.1,73,84,500/- which the AO considered to be the cost but as per the assessee the investment was of Rs.63,67,496/-. Therefore the AO was of the view that the difference of Rs.1,09,87,004 which was approximately 60% of the total value, alleged to have been paid in cash from unaccounted money. Assessee was asked to explain as to why aforesaid difference not be added to the income as unexplained investment. Assessee inter alia denied having any information with respect to the documents seized. However, during the course of assessment proceedings, it was noted by AO that assessee along with her son Shri Manish Yadav was having a joint venture in M/s. Clavecon India Pvt. Ltd. wherein assessee and Shri Yugank Goel were directors in the company. AO also noted that the Shri B. B. Goel is a contractor in Irrigation department where Shri Rajeshwar Yadav, husband of the assessee worked as a Superintending Engineer. AO therefore concluded that families of Shri B. B. Goel and the assessee knew each other. AO was further of the view that Page 71 of Annexure – LP – 1 found at the residential premises of Shri B. B. Goel indicated that the family of Shri B. B. Goel and the family of the assessee had jointly invested in a project namely the Habitat Centre and it also reflected that the cost of shop was at Rs.25,000/- per sq.ft. for which according to AO,

approximately 60% of the cost was paid in cash from unaccounted money. A.O. noted that no convincing reply was furnished by the assessee about the difference. He therefore treated the difference of the amount found in Annexure LP1 and the amount disclosed by the assessee amounting to Rs.1,09,87,004/- as unexplained investment towards purchase of shop No. 384 and made its addition u/s 69 of the Act.

91. Aggrieved by the order of AO assessee carried the matter before CIT(A), who upheld the order of AO. Aggrieved by the order of CIT(A), assessee is now before us.

92. Before us, Learned AR reiterated the submissions made before lower authorities. He further contended that the entire addition has been made purely on the basis of conjectures and surmises without being supported by any incriminating material. He further submitted that admittedly the diary was found at 3rd party's premises and it is a settled position of law that if anything found in possession of any person then the onus would be on such person to explain the contents of the documents and to prove that it does not belong to such person. In support of his aforesaid contentions, Ld. AR placed reliance on the judgments rendered by Hon'ble Delhi High Court in the case of CIT vs. Praveen Juneja (ITA No. 56/2017 dated 14.07.2017) to buttress

the contention that merely on the basis of a single document without making any further inquiries, the addition was not justified. The AO made no attempt to find out that what was the cost of investment by making field inquiries from other similar purchasers of the property. He further contended that since the impugned loose sheets were found at the premises of the third party, the presumption u/s 132(4A) and 292C of the Act thereof cannot be applied against the assessee. He further submitted that since the said papers have not been found from the possession or the premises of the assessee, it cannot be attributed to the assessee. In support of the aforesaid contention, he placed reliance upon the decision of Tribunal in case of Straptex India Pvt. Ltd. vs. DCIT [2003] 84 ITD 320 (Mum), ACIT vs. Kishore Lal Balwant Rai [2007] 17 SOT 380 (Chd.), Jai Kumar Jain vs. ACIT (2007) 11 SOT (Jaipur) (URO), Saif Ali Khan Mansurali vs. ACIT 13 ITR (Trib) 204 (Mum.). He further submitted that law is well settled that mere scribbling/jottings on a piece of paper does not constitute any credible evidence to be used against the assessee, more so, if it is not found from the possession of the assessee. He therefore submitted that the addition made by the AO and upheld by CIT(A) be deleted.

93. Learned CIT-DR opposed the submissions made by Ld. AR and supported the order of lower authorities. He contended that the lower authorities were justified in treating the difference as unexplained investment. He further submitted that it is a normal practice that the part payment of sale consideration is made in cash in property transactions and therefore the registration by the stamp valuation authority at lower rate as per the stamp valuation Act such amount does not reflect the true and correct fair market value of the property. He therefore, submitted that the AO has rightly treated the amount mentioned in diary as unexplained investment.

94. We have heard the rival submissions and perused the material available on record. There is no dispute with regard to the fact that the additions have been made purely on the basis of the certain loose papers found at the premises of third party. It is also undisputed that except the loose papers, there are no other documents suggesting that assessee had entered into an agreement at a higher rate than disclosed in the sale deed. The AO has also not brought any other sale instances of similarly situated properties. The law is well settled that there has to be corroborative evidences to prove any figure written in the loose sheet of paper. Moreover, it has been held by the Hon'ble Supreme Court in the case of CBI vs. V. C. Shukla [1998] 3 SCC

410, that writing in his diary by a third party is not a reliable evidence and same cannot be viewed as an evidence. Moreover, the statement of B. B. Goel also does not support the case of Revenue as he has categorically stated that the figures written are merely projections about future profit. Reliance was placed on the judgement of Hon'ble Delhi High Court in the case of CIT vs. D K Gupta (2009) 308 ITR 230 (Del) to buttress the contention that the burden was on the Revenue to prove that the explanation of Shri B. B. Goel was not correct and that the notings/jottings were in fact related to the investments of the undisclosed amount. Further, Revenue has also not placed any material on record to demonstrate that any action was taken by Revenue in the case of seller of property. Considering the totality of the facts placed on record, it is evident that the lower authorities have made addition purely on the basis of the notings in diary found in the possession of Shri B. B. Goel and the statement recorded in this regard. The Revenue did not provide opportunity of cross examination to the assessee in respect of any statement made by Shri B. B. Goel. The AO has also not brought any other material suggesting the actual fair market value of the property in question is higher than what is recorded in the sale deed. Undisputedly, transfer of a property would always be between two parties one

being seller and other the purchaser. It cannot be assumed that one party disclosed correct figure of consideration and the other party concealed the true value of the property. There is no mention about action taken by Revenue in the case of seller who had sold the shops to the assessee. It was incumbent upon the AO to demonstrate the correct fair market value of the property when he was not accepting the value disclosed by the assessee. In the absence of such finding with supporting evidences, any addition made on the basis of presuming that the figures written by the third party in his diary is the fair market value of property, would not be justified and against the law laid down by Hon'ble Supreme Court in the case of CBI vs. V. C. Shukla (supra) and followed in other catena of judgments. We therefore respectfully following the binding precedents on this issue relied by the Ld. AR hold that the addition has been made purely on the basis of surmises and we therefore direct for it deletion. Thus the ground raised by the assessee is allowed.

95. In the result, the appeal of the assessee is partly allowed.

7. The ITAT Delhi Bench after considering the rival submissions of both the sides and factual analyses and also considering the relevant case laws relied by both the sides

has categorically held that pages 70 & 71 of annexure LP-1 was found and seized and the A.O. treated the difference amount found and noted in LP-1 page 70 & 71 the amount disclosed by the assessee as explained investment towards purchase of shop 384 and made addition u/s. 69 of the Act. The Tribunal after considering the totality of the facts and circumstances and evaluating the rival submissions and case laws held that undisputedly transfer of property would always be between two parties one being seller and other the purchaser. Thereafter it was held that it cannot be assumed that one party disclosed correct figure of consideration and other party concealed the true value of property. It was also observed that there was no mention about the action taken by the Revenue in the case of seller who at sold the shops of the assessee. It was incumbent upon the A.O. to demonstrate the correct figure of market value when he was not accepting the value disclosed by the assessee. The Tribunal finally held that in absence of such findings with supportive evidences additions based on the presumption that the figure noted on a loose sheet of paper

is a fair market value of property would not be justified. The Ld. CIT DR could not show us any dissimilar or glaring situation which could lead us to take it different view from the view taken from the conclusion recorded by the coordinate bench of Tribunal in the case of Smt. Shashi Yadav & Smt. Poonam Yadav vs. DCIT (supra). It is also relevant to note that in the present appeals the assessee Smt. Anil Bala Goyal purchase shop no 384 and Smt. Maanya Goyal purchase shop no 385 and the A.O. made addition on the basis of identical material i.e. annexure LP-1 pages 70 & 71. Therefore respectfully following the order of the coordinate bench of ITAT Delhi in the case of Smt. Shashi Yadav & Smt. Poonam Yadav vs. DCIT (supra). Grounds of assessee are allowed. In the result the appeal of the assessee is allowed.

8. Our conclusion drawn for ITA no. 1533/Del/2021 would apply mutatis mutandis to ITA No. 1536/Del/2021. Resultantly both the appeals of assessee are allowed.

Assessee appeal ITA No.1534/Del/2021 & Revenue appeal ITA No. 1808/Del/2021 both for A.Y. 2015-16

9. The grounds of appeal raised in ITA No. 1534/Del/2021 for A.Y 2015-16 read as under:-

1. Because the learned of the CIT appeals as erred in sustaining the addition of Rs. 9,02,000/- being the difference in the valuation of property as estimated by DVO and that recorded in the duly registered purchase deed. Report of DVO is an opinion and cannot via basis of determining the actual purchase price of property.

2. Because in any view of the matter the difference between the actual purchase price and the valuation report being less than 5% and ought to have been ignored by the learned CIT appeal.

3. Because the appellant denies liability of interest under the act.

4. Because the order appealed against in contrary to facts, law and principles of natural justice and in any view of matter deserves to be quashed.

5. Because the assesse carves leave to add, amend, modify or cancel all or any grounds of appeal.

10. The grounds of appeal raised in ITA No. 1808/Del/2021 for A.Y 2015-16 read as under:-

> 1. *On facts and circumstances of the case and in law, the Ld: CIT(A) erred in deleting. the addition made by AO to the tune of Rs. 2,01,89,000/ on account of the difference of value of the property as per sale to agreement and as per the final sale deed, as there was fabrication in the document, "Agreement to Sale"*
>
> *2. On facts and circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made by AO to the tune of Rs. 9,00,000/- on account of unexplained cash deposited into saving bank accounts.*
>
> *3. On facts and circumstances of the case and in law, the CIT(A) failed to allude to the relevant facts & circumstances and misread the facts to arrive at the conclusion.*
>
> *4. That the appellant craves leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.*

11. `The Ld. CIT DR supporting the assessment order submitted that the Ld. CIT(A) has erred in deleting the addition made by the A.O. on account of difference of value

of the property as per the sale agreement and as per final sale deed as there was fabrication in the document agreement to sale. The Ld. CIT DR drawing our attention towards relevant part of the assessment order submitted that as per page no. 173, where the total sale consideration of property sold was settled to Rs. 4,10,11,000/- between both the parties, in regard to which the assessee submitted that it was printing by mistake after which corrections were made. The A.O. not satisfied with the reply of assessee held that the reply of the assessee is not convincing and he added the difference amount of Rs. 2,10,91,000/- to the taxable income of the assessee as assessee u/s. 69B of the Act. The Ld. CIT DR submitted that the learned first appellate authority has granted relief to the assessee by considering the irrelevant facts and circumstances therefore the impugned first appellate order may kindly be set aside by restoring that of the A.O. The Ld. CIT DR also submitted that the learned first appellate authority has restricted the addition to Rs. 9.02 lakh, without any justified reasoning and basis therefore assessment order may kindly be

restored and impugned first appellate order may kindly be set aside.

12. Replying to the above the Ld. AR our attention towards written submissions filed by the assessee and relevant paras of order of the Ld. CIT(A) para 5 to 6.8 and submitted that the Ld. CIT(A) has considered the total relevant facts and circumstances of the issue and rightly concluded that the seized material page no. 168 to 174 of annexure LP, which was found during the search from official premises of Clavecon India Pvt. Ltd. was not a final document as that agreement was only name of Shri. Yugank Goyal and actually under subsequent agreement the property was purchased in the name of B.B Goyal, Smt. Anil Bala Goyal and Shri Yugank Goyal jointly by sale deed dated 22.07.2014. The Ld. AR also pointed out that all the payments have been made through banking channels after deducting the TDS and there is no evidence except scrapped sale agreement dated 05.06.2014, in the hands of A.O. to show there was on money payment by the assessee to the builder. The Ld. AR vehemently pointed out that even the

valuation of the property has been made at Rs. 2,08,22,000/- by DVO Meerut vide report dated 24.04.2018, therefore the Ld. CIT(A) was right in deleting the major part of the addition. The Ld.AR also pointed out that the copy of cancelled and modified agreement has been placed by the assessee at pages 1 to 3 which was never acted upon by the party and the copy of actual purchase deed dated 24.07.2014 registered on 24.07.2017 clearly reveals that prevailing circle rate of the property purchased was calculated at the rate of 7800 per sq. meter and construction rate of 12000 per sq. meter, therefore the addition made by the A.O. without any justified reasoning and basis was rightly deleted by the Ld. CIT(A). Therefore the appeal of the revenue may kindly be dismissed.

13. Since the ground raised by the assessee in ITA No. 1534/Del/2021 are also related to the same issue therefore grounds of revenue as well as assessee required to be adjudicated together. The Ld.AR pressing into service grounds of the assessee submitted that the Ld. CIT(A) has erred in sustaining the addition of Rs. 9.02 lakh being the

difference in the valuation of property has estimated by the DVO and that recorded in the duly registered purchase deed. He further submitted that the report of the DVO an opinion and the difference between actual purchase price and the DVO report is less than 5% therefore the same ought to have been ignored by the Ld. CIT(A) as the difference of 10% is permissible as per provision of the Act. The Ld.AR also submitted that the Directorate of Investigation by letter dated 08.01.2018 referred the matter to the DVO for valuation of the property and the valuation officer Meerut furnish the valuation report vide letter dated 24.04.2018 at Rs. 2,08,22,000/- as against the declared by the appellant in the purchase deed at Rs. 1,99,20,000/- and difference was only of Rs. 9.02 lakh which is less than the 10% of total value of transaction which was required to be ignored as per the provisions of the Act, the Ld.AR vehemently pointed out that the Assessing Officer, for the reasons best known to him has not acknowledged the valuation report properly which was rightly taking into consideration by the Ld. CIT(A). The Ld.AR submitted that

the Revenue Officers should be kind to consider all the relevant documents whether against the assessee or in favour of the assessee. Therefore the amount of additions of Rs. 9.02 lakh restricted by the Ld. CIT(A), which was to be ignored as per provision of the Act, should be deleted.

14. Replying to the above Ld. CIT DR again place reliance on the assessment order and submitted that the Assessing Officer was not required to referred DVO report *suo motto* therefore the entire addition made by the A.O. may kindly be confirmed by allowing the appeal of the revenue and dismissing appeal of the assessee.

15. On a careful consideration of rival submissions first of all we may point out that when the Directorate Investigation during investigation has referred the matter to the DVO Meerut for valuation of property which was submitted by him on 24.04.2018 and the Assessing Officer initiated assessment proceeding u/s. 153A of the Act by issuing notice on 23.08.2021. However the Ld. A.O. did not appreciated and rather ignored this important piece of

evidence gathered by the Directorate of Investigation Wing. We are not in agreement with the contention of the Ld. CIT DR that the A.O. cannot referred the DVO report *suo motto*. As it is the duty of the tax authority to consider all the relevant documentary evidence and reports at the time of framing assessment orders there are not permitted to go for pick and choose method for making assessment and such kind of method cannot be held as fair.

16. So far as first appellate order is concerned from the relevant part of the first appellate order, which has been reproduced here in above, we clearly note that the Ld. CIT(A) has properly considered the entire facts and circumstances of the case including valuation report called by the Directorate of Investigation Wing and thereafter restricted the addition to Rs. 9.02 lac taking the difference between the value shown by the assessee and his co-purchaser in the registered purchased deed and report of the DVO. We are unable to see ambiguity, perversity or any other valid reason to interfere with the findings arrived by the Ld. CIT(A) in this regard. It is also pertaining to mention that

the Assessing Officer has made addition on the basis of an agreement with developer and assessee cancelled, which was, as per the assessee was not acted upon and cancelled. Copy of the cancelled agreement has been placed at pages 1-3 of assessee's paper book which has not been controverted by the Ld. CIT DR except making some comments thereon. It is also relevant to note that the basis of addition taken by the Assessing officer was in the hands of the assessee is purchase deed dated 24.07.2014 which is not in the sole name of the assessee but has been executed in favour of three purchaser including assessee and two other co-purchaser therefore the A.O. was not correct and justified and making additions in the hands of assessee only. The addition made by the A.O. is found not sustainable on this account also. So far as challenge of the Ld.AR of the assessee to the amount of addition of Rs. 9.02 lakh restricted by the Ld. CIT(A) is concerned the actual sale of value shown by the three co-purchasers including the assessee was at Rs. 1,99,20,000/- whereas the Departmental Valuation Officer report vide dated

24.04.2018, valuated the market value of the property at Rs. 2,08,22,000/- and there was a difference of Rs. 9.02 lakh which was picked up by the Ld. CIT(A) for making for restricted the addition made by the A.O. As per third proviso to section 50C of the Act, where the value adopted or assessed or assessable by the stamp valuation authority does not exceed 10% of the consideration received the consideration so received of accruing as a result of transfer shall for the purpose of section 48 deemed to be value of consideration. Even as per order of ITAT Mumbai in the case of Joseph Mudaliar vs. DCIT [2021] 130 taxmann.com 250 (Mumbai - Trib.) as relied by the Ld.AR, third provision of section 50C of the Act the difference less than 10% from the consideration shown by the assessee and accepted by the Stamp Valuation Officer and DVO report has to be ignored and no addition is called in the situation. In the present case the amount of Rs. 9.02 lakh is less than 5% of total sale consideration of Rs. 1,99,20,000/- shown by the assessee. Therefore, no further addition is required to be made in the hands of the assessee u/s. 69B or any other

provision of the Act. Accordingly ground no. 1 of the revenue is dismissed and grounds no 1 and 2 of assessee in ITA No. 1534/Del/2021 are allowed.

17. Ground no. 2 of revenue. The Ld. CIT DR submitted the Ld. CIT(A) has erred and deleting the addition of A.O. to Rs. 9 lakh on account of unexplained cash deposits in the saving bank account. The Ld. CIT DR drawing out attention towards assessment order submitted that due to inaccuracy of statement and in absence of valid and cogent documentary evidence/information the reply file by the assessee was not acceptable and tenable therefore the A.O. was right in making addition u/s. 69A of the Act in the hands of the assessee. The Ld. CIT DR submitted that the order of Ld. CIT(A) may kindly be set aside by restoring that of the A.O.

18. Replying to the above the Ld. AR took us through the relevant para 7.1 to 7.4 of the first appellate order and submitted that the AO could not find any deficiency in the books of accounts and accepted the same and the Ld. CIT(A)

after rightly appreciating the explanation of the assessee held that the amount of Rs. 5 lakh has been deposited in the saving bank account with Central Bank of India on 30.11.2014 and the available cash balance of Rs. 21,42,186/- was reduced to Rs. 16,42,186/- and out of same cash balance Rs. 4 lakh was deposited on 25.11.2014 reducing the cash in hand to Rs. 11,62,186/- The Ld.AR also submitted that the Ld. CIT(A) has granted relief to the assessee on correct and sustainable basis therefore ground of revenue may kindly be dismissed.

18.1 On being asked by the bench the Ld. CIT DR could not controvert the relevant documentary evidence including ledger of assessee in the books his proprietors firm of M/s G G Earth Movers and factum of cash balance in the hands of assessees' proprietorship firm. From the first appellate order we note that the Ld. CIT(A) has granted relief to the assessee by observing as follows:

> *7.3 From the cash books of the appellant on individual account and on account of its proprietary concerns i.e. M/s. G.G. Earthmovers for AY 2014-15 it has been*

found that the appellant has withdrawn Rs. 5,00,000/- on 05.10.2014 and further Rs. 5,00.000/-on 01.11.2014 from the cash book of M/s. G.G. Earthmovers. The amount of Rs. 5,00,000/- has been deposited in CBI saving bank Account on 13.11.2014 and thus the available cash balance has reduced from Rs. 21,42,186/- to Rs. 16,42,186/-. Further on 25.11.2014 Rs. 4.00,000/- have been taken from cash book and deposited in Axis Bank saving account and cash balance of Rs. 15,62,186/- has reduced to Rs. 11,62, 186/-. The books of account have been maintained by the appellant who has declared the income of Rs. 41,55,470/- this year. The assessing officer could not find any deficiency in the books of accounts and accepted the same. Therefore no otherwise conclusion can be drawn with regard to the availability of cash balance in the cash books.

7.4 In the light of facts of the case as elaborated above the cash amount of Rs. 9,00,000/- deposited in the savings bank accounts of the appellant stands explained. Therefore the addition of Rs. 9,00,000/- made u/s 69A of IT Act is hereby deleted and relief is allowed to the appellant.

19. After considering the rival submissions of both the side and evaluation of findings arrived at by the Ld. CIT(A) we

are of the considered view that the assessee was proprietor of M/s. G G Earthmovers during A.Y. 2014-15, and available cash in hand in the said proprietary concerned was of Rs. 21,42,186/- on 13.11.2014 out of which he deposited amount of Rs. 5 lakh on 13.11.2014 and Rs. 4 on 14.112014. It is also pertinent to mentioned that the assessee has declared an income of Rs. 41,55,470/- for A.Y. 2015-16 and the impugned amount is only Rs. 9 lakh which is also less than the cash balance available in the proprietary firm of the assessee. Therefore the Ld. CIT(A) was right in deleting the addition of Rs. 9 lakh made by the A.O. u/s. 69A of the Act. Finally we are unable to see any valid reason to interfere with the findings arrived by the Ld. CIT(A), therefore we confirm the same. Resultantly ground no 2 of revenue is also dismissed. Other grounds of assessee as well as revenue does not required any specific adjudication being general in nature.

20. In the result the ITA No. 1808/Del/2021 of revenue is dismissed and the ITA No. 1534/Del/2021 of assessee is allowed.

Revenue appeal ITA No.1807/Del/2021 for A.Y 2017-18

21. The grounds of appeal raised by Revenue in ITA No. 1807/Del/2021 for A.Y 2017-18 read as under:-

> 1. *On facts and circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made by AO to the tune of Rs. 1,05,96,000/ on account of the difference of "On Money" paid in cash at the rate of 60% of the shop, for allotment of shops no. GF-289, based on circumstantial evidences.*
>
> *2. On facts and circumstances of the case and in law, the Ld. CIT(A) failed to allude to the relevant facts & circumstances and misread the facts to arrive at the conclusion.*
>
> *3. That the appellant craves leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.*

22. Pressing into service sole grievance of revenue the Ld. CIT DR, supporting assessment order submitted that on the basis of documentary evidence found and seized from the premises of the assessee in annexure LP-1 page no. 73 revealed that the partial amount has been paid in cash

which was approximately 60% of the total payment. The Ld. CIT DR also submitted that the Assessing Officer rightly held that where the actual cost of shop was 24,000 per sq feet and 60% amount has been paid in cash then to differential amount of Rs. 1,05,96,000/- was rightly treated as unexplained money u/s. 69A of the Act and the A.O. was also right in invoking taxing provision of section 115BB of the Act. Ld. CIT DR submitted that the learned first appellate authority has deleted the addition by wrongly observing that pertaining to shop no GF 289 no evidences of cash payments have been found in the seized material. Whereas from the same builder the other purchasers which were friends and family members of the assessee viz. Shri Rajeshwar Singh, Smt. Shashi Yadav, Smt. Poonam Yadav, Shri Manish Yadav, Smt. Anil Bala Goyal and Smt. Maanya Goyal, the Assessing Officer has made additions on identical facts and circumstances which have been confirmed by the same Ld. CIT(A). Therefore the Ld. CIT DR contended impugned first appellate order may kindly be set aside by restoring that of the A.O.

23. The Ld.AR has placed reliance on various judgements of Hon'ble Supreme Court, Hon'ble High Court and coordinate benches of Tribunal including recent judgment of Hon'ble Bombay High Court in the case PCIT vs Nexus Builder & Developers Pvt. Ltd., (2022) 134 taxamann.com 8 (Bom) and submitted that there was no evidence found against the respondent and no enquiry was carried out by the A.O. to find out more details or positive evidence to establish that over and above payment has been made then the addition made on hypostatical basis cannot be held as sustainable.

24. On a careful consideration above submissions first of all that we may point out that on the same documents founds & seized during the search & seizure operation on the premises of the assessee additions were made in the hands of present assessee as well as in the hands of Smt. Shashi Yadav & Smt. Poonam Yadav and the coordinate bench of the Tribunal by order dated 10.10.2022 (supra) has deleted the addition. It is a peculiar situation of present case that the Ld. CIT(A) found that there was not evidence

in the hands of A.O. regarding cash payment pertaining to shop no GF 289 and he deleted the addition by observing that no mention of shop no. GF 289 found has been found in the seized material in respect of cash payment by the assessee to the builder. Relevant observations of Ld. CIT(A) are as follows:

> *6.3 I have carefully perused the findings of the assessing officer in the assessment order and the submission of the appellant. This is a fact that appellant has made investment in a shop no. GF-289, on the ground floor of Indipuram habitat Center situated at Plot No. 16, Ahinsakhand-1, Indirapuram, Ghaziabad, Uttar Pradesh. The appellant accepted that investment had been made in this shop and all the details relating to the same have been provided by the appellant including the sub lease deed dt. 25.02.2019, details of payment made along with a copy of complete allotment letter dt. 30.10.2016. The main contention of the appellant is that in case of appellant i.e. Sh. Bankey Behari Goyal s/o. Sh. Dau Dayal Goyal resident of 6/204 Tikoniya, Belanganj, Agra, Uttar Pradesh, commercial space at Unit No. GF-289 on the ground floor in project Indirapuram habitat Center has been allotted. But the case of appellant is completely different from other*

allottees who happened to be family members of the appellant. It has been submitted that F-385 and GF-387 have been allotted to the family members i.e. Smt. Anil Bala Goyal and Smt. Maanya Goyal but the appellant made an investment in case of GF-289 by making first deposit on 11.02.2016 vide cheque no. 067981 amounting to Rs. 6,00,000/- whereas in case of Smt. Ani Bala Goyal and Smt. Maanya goyal the shops were purchased in April 2017. The appellant further submits that no details of cash payments could be found and seized with regard to shop no. GF-289. Thus the appellant Sh. B.B. Goyal has made a detailed submission distinguishing his case i.e. shop no. GF-289 from the cases of Smt. Ani Bala Goyal and Smt. Maanya Goyal, in whose cases details of cash payments were found in various. seized pages, specifically. in page no. 70, 71, 73 & 74 of LP-1 found and seized from his residential premises.

6.4 From the observations of the assessing officer in the body of assessment order it has been found that the parallels are drawn between GF- 385 & GF- 387 which are allotted to Smt. Ani Bala Goyal and Smt. Maanya Goyal and GF- 289 which is allotted to the appellant and based on this parallel, the AQ has concluded that the cash amounting to around 60% is found to be paid in case of Smt. Ani Bala Goyal and Smt. Maanya Goyal,

which is evident from the seized material, therefore in case of appellant also, the cash might have been paid and hence the addition has been made us 69A of IT Act. However such parallels are not justified, when there is no mention of cash payment in case of appellant from any seized material. In the appellate orders of Smt Ani Bala Goval and Smt. Maanya Goyal, additions on account of cash payments have been confirmed by the undersigned since there was categorical mention of cash payment in the seized material, therefore it has been held that in the light of provisions of section 132(4A) and 292C, the contents of seized material cannot be ignored. However in case of the appellant ie. shop no. GF-289, no such evidences of cash payments have been found in the seized material. Further the appellant has distinguished his case by bringing to the notice that the allotment of the shop has been got done at the time of launching of the project i.e. Indirapuram Habitat Center and hence he has got good prices being early bird and hence no addition can be made by drawing parallels›

6.5 In the light of above findings, it is observed that the case of the appellant is different i.e. case of shop no. GF-289 is different from the cases of shops GF. 382, 383, 384, 385, 386 & 387. Rather from the seized material at pages 70, 71, 73 & 74 of LP-1 found and

seized from the residence of Sh. B.B. Goyal. the additions have been confirmed in cases of owners of shop nos. 382, 383, 384, 385. 386 & 387 who happen to be members of families of Sh. Rajeshwar Singh and Sh. B.B. Goyal i.e. Smt. Shashi Yadav, Smt. Poonam Yadav, Sh. Manish Yadav, Smt. Ani Bala Goyal & Smt. Maanya Goyal. However the case of the appellant is different in the sense that no mention of this shop in respect of cash payment has been found in case of the appellant. Therefore the addition of Rs. 1,05,96,000/- is hereby deleted and relief is allowed to the appellant.

25. In view of foregoing we are unable to see any valid reason to interfere with the findings recorded by the Ld. CIT(A) in the first appellate order while deleting the addition. Therefore sole grievance of revenue being devoid of merits is dismissed.

26. In the result in revenue appeal for A.Y. 2017-18 is dismissed.

Assessee appeal ITA 1535/Del/2015 A.Y. 2018-19

27. The grounds of appeal raised in ITA No. 1535/Del/2021 for A.Y 2018-19 read as under:-

1.a) Because upon due consideration of facts and in the circumstances of the case, the authorities below are highly unjustified in making and sustaining addition of Rs. 54,00,000 on account of wrong allegation of payment of on money for Purchase of unit No. 805 and 806 in Habitat Centre Indirapuram, Ghaziabad. The addition made is arbitrary and is against the facts and circumstances.

b) Because in spite of these being no material to suggest that such payment has been made, such addition of Rs. 54,00,000/ - has been made and sustained arbitrarily presuming that such payment has been made.

c) Because the assesse has never purchased such property and therefore there is no question of making such payment. The addition has been made and sustained without consideration of overall facts and circumstances.

2. Because in any view of the matter the authorities below have erred in levying and sustaining tax u/s 115 BBE. Such levy is highly excessive and unreasonable.

3. Because while making the assessment the AO and while sustaining the addition the Id. CIT (A), made various observations / conclusion, which are contrary to facts.

4. Because the appellant denies liability of interest under the act.

5. Because the order appealed against in contrary to facts, law and principles of natural justice and in any view of matter deserves to be quashed.

6. Because the assesse carves leave to add, amend, modify or cancel all or any grounds of appeal.

28. The Ld. Counsel for the assessee briefly reiterated the written submissions of assessee which are as follows:-

"3.4..... There seems some truth in the explanation of the assessee where it is alleged that the entries relate to some futuristic planning. Since the assessee is carrying on the business of estate agent, in the process of this business, he is required to discuss various plans, projects and proposals with various parties like brokers, builders, etc. These discussions generally take place before a project for purchase of development, plans are discussed as the assessee acts as an agent on behalf of the buyer or seller. Therefore, notings: on the piece of paper do not indicate the actual transaction.

The paper in question does not indicate that any transaction had ever taken place because it does not contain any information as to what was the nature of transaction. If at all, any such transaction took place for the parties to the transaction, what was the date of the transaction, what did the figure noted on the piece of

paper represent, and whether in any manner the paper in question has any relevancy to the determination of the income in the hands of the assessee. No evidence has been brought on record to corroborate the allegation that the assessee had entered into any transaction or had earned any income. There was no evidence to show that there was any undisclosed investment or any sale of any property for the amount as given in this piece of paper.

Some jottings were found on the piece of paper, from which it could not be presumed that any purchase or sale has taken place with regard to these properties.

Therefore, no corroborating evidence is brought on record to corroborate the conclusion that the assessee has entered into any transaction or had earned any income. The AO himself has mentioned that the paper in question is a bald estimate.

Therefore, unless there is corroborating evidence to show that the purchase and sale of these properties has taken place and the assessee has earned income, no amount can be added in the hands of the assessee. In the instant case distinct and separate proofs were necessary, namely, proof of recovery and proof of the truth of the contents of the seized papers.

3.5. Therefore, we hold that there is no corroborating evidence of the contents of the documents and also there is no material to ascertain the truthfulness of the statement.

3.6. In such circumstances, it cannot be presumed that seized document shows any transaction of sale and purchase entered into by the assessee, which is not disclosed by him. In the case of Hindustan Ferodo ITD. vs. Collector of Central Excise (1997) 89 ELT 16 (SC) the Hon'ble Supreme Court laid down that it is not the function of the Tribunal to enter the arena of making suppositions that are tantamount to evidence that the party has failed to lead. Therefore, it is clear that from any material evidence on record the Tribunal is not supposed to infer from the facts which are not supported by any material or evidence on record."

4.3. We have considered the rival submissions and have gone through the entire material available on record. The papers in question are tiny pieces of papers. It does not Indicate that any transaction ever took place. It does not contain any information as to what was the nature of the transaction, if at all, any such transaction took place, who were the parties to the transaction and what was the date of the transaction, what did the figures noted in the piece of paper represent and whether in any manner the paper in question has any relevance to

the determination of income in the hands of the assessee.

The Department has not succeeded in bringing any corroborating evidence on record to support their findings.....

Thus, addition on this account cannot be sustained.

29. The above written submissions can be summarized on following points:-

(i) The agreement found and seized during the search operation has not been signed by the assessee.

(ii) Appellant was not satisfied with the proposal of builder and thus neither signed the agreement nor gave or deposited amount of Rs. 54,00,000/- as demanded by the builder.

(iii) The said deal never got mature no payment was made and no agreement was signed by the assessee, agreement signed by the builder has not elementary value.

(iv) In the assessment order the Assessing officer had mentioned payment detail at page no 5 but no cheque or UTR number has been mentioned against this entry.

(v) No cheques for so-called monthly compensation were ever and banked or encash by the assessee.

(vi) From the so-called agreement the word "cash" has never been mentioned nor it is a case of the Assessing Officer that the assessee has payment of Rs. 54,00,000/- in cash.

(vii) No collaborative to evidence has been filed found during the course of search showing cash payment by the assessee to the builder.

(viii) Since no cheque or UTR number was mentioned in the so-called agreement which clearly show that the builder was unaware as to whether he will receive cheque or RTGS or if at all payment was made and if at all he would finally received the payment.

(ix) It is also contention of the assessee that the property deal never metalized and shop no 805 & 806 were never allotted to the assessee, had the assessee paid the entire amount to the builder then only said shops allotted to him.

30. Replying to the above the Ld. CIT-DR supporting the order of the authorities below submitted that the reply submitted by the assessee was after thought which could not be substantiated. The Ld. CIT-DR vehemently pointed

out that the contents of the seized document cannot be ignored especially when the document has been executed on non judicial stamp paper of Rs. 100 duly signed by the recipient/builder of the amount and found from the control and possession of the payer. The Ld. CIT-DR submitted that the presumption u/s. 132(4A) r.w.s. 292C of the Act has to be applied to such kind of evidence and the A.O. was right in making addition u/s. 69A of the Act in the hands of assessee. Further drawing our attention towards relevant operative paras of first appellate order the Ld. CIT-DR contended that the reply and submissions of the assessee has been properly considered and appreciated by the learned first appellate authority and thereafter he drew a right conclusion that the assessee has made investment of Rs. 54,00,000/- which was not disclose in the books of accounts, therefore he was right invoking provision of section 69A of the Act.

31. Placing rejoinder to the above the Ld.AR again submitted that the so called document has not been signed by the assessee and without acceptance of the any proposal

in the form of signature in the agreement such kind of documentary evidence cannot be relied upon for making presumption u/s. 132(4A) r.w.s. 292C of the Act. He further submitted that the assessee categorically accepting token payment of Rs. 1,00,000/- through cheque to the builder but thereafter he decided to changed his mind and requested the builder to refund of Rs. 1,00,000/- token payment. But instead of returning the amount of Rs. 1,00,000/- the builder due to lull in the real estate market, hard press the assessee to purchase property and not to change his mind and for this purpose he prepared an agreement by filing imaginary figures except payment of Rs. 1,00,000/-, and the send same to the assessee to force him entered into that agreement but the assessee never acted upon on such agreement and repeatedly to requested the builder to return Rs. 1,00,000/. The Ld.AR further submitted that from the copy of the alleged agreement it is very clear that the assessee never signed the same and never made any payment of Rs. 54,00,000/- otherwise there would be a cheque no. and UTR no. in the relevant column

wherein Rs. 54,00,000/- is appearing. The Ld.AR further pointed out that the assessee never banked cheques from the builders as mentioned in the agreement and thus no question arises with respect to the cheques mentioned in the agreement. The Ld.AR submitted that the Assessing Officer has not brought out on record any adverse or positive material against the assessee to show that the assessee has made payment of Rs. 54,00,00/- in cash or through banking channels and assessee acted upon so called agreement. The Ld.AR finally prayed that in absence of such exercise by the A.O. no addition can be made in the hands of the assessee without any adverse or positive evidence to show that the assessee has made investment of Rs. 54,00,000/- in cash or through cheque which was not recorded in the books of accounts of assessee to attract provision of section 69A of the Act.

32. On careful consideration of rival submissions first of all from the relevant part of the assessment order, we observe that the A.O. in para 5 has reproduced some parts of agreement LP-1 pages no. 35-39. The A.O. at page 5 drew

a table from the said agreement wherein the payment of Rs. 54,00,000/- has been shown at serial no.3 but no cheque/UTR no. has been mentioned against said amount. At the same time we observe that an amount of Rs. 50,000/- each has been shown to have been paid by the assessee through cheque no. 100095 and 100096 which has been admitted by the assessee before the A.O. with an explanation that it was token amount but thereafter the assessee changed his mind and came out from the deal of purchase of property. The said agreement was not signed by the assessee and the same was only signed by the builder, except this agreement there was no documentary evidence in the hands of A.O. in support of his claim that the assessee has paid of Rs. 54,00,000/- in cash out of his income from other undisclosed sources treating the same as unexplained money under provision of 69A of the Act. Undisputedly, the document was found and seized from the possession of the assessee but only on the standalone basis of such document which was not signed by the assessee and never acted upon by the assessee. The provision of

section 69A of the Act cannot be pressed into service against the assessee. We may also point out that it is not a case of the A.O. or Ld. CIT(A) that in the said agreement there was mentioning of Rs. 54,00,000/- in cash or any other document, dairy or notings were found to support of this allegation was found and seized during the search operation. Only on the basis of such document which cannot be branded or labelled as an agreement in absence of signature of both the parties no addition can be in the hands of the assessee u/s. 69A of the Act. To support this proposition the Ld.AR has relied on various orders and judgments of Hon'ble High Courts and coordinate benches of Tribunal which are listed below:-

i) Commissioner of Income Tax vs. Ravi Kumar [(2008) 168 taxman 150 (Punjab & Haryana)

ii) Kantilal Chandulal & Co. v. Commissioner of Income Tax [1992] 136 ITR 889

iii) PCIT vs. Nexus Builders and Developers (p.) Ltd. (2022) 134 taxmann.com 82 (Bom)

(iv) Monohar lal Rattan lal vs. DCIT [2004 (2) TMI-275-ITAT Amritsar]

(v) Saamag Developers (P.) Ltd. vs. ACIT [(2018) 90 taxmann.com 20m (Delhi-Trib)

(vi) DCIT vs. Rajat Agarwal [(2012) 27 taxmann.com 166 (Jaipur-Trib)]

(vii) DCIT vs. M/s Signature Colonisers, Bhopal [ITA No. 218/Ind/2020 and ITA No. 219/Ind/2020]

(ix) M.M Financiers (P.) Ltd. vs. DCIT [(2007) SOT 5 (Chennai) (URO)]

(x) Anil Kumar Bhatia vs. ACIT [(2010) 1 ITR (T) 487 (Delhi)]

(xi) Commissioner of Income Tax vs. Tips Industries (P.) Ltd., [(2010) 321 ITR 154 (Bom)

(xii) S.K Gupta vs. DCIT (1999) 69 TTJ Del 535.

33. On careful perusal of above judgments and other we find that the Hon'ble Bombay High Court in the case of PCIT vs. Nexus Builders and Developers (P.) Ltd. (supra) held that there was no evidence found against the respondent and no enquiry was carried out by the A.O. to find out the more details and when the entire addition has been made on

hypothetical basis then the Tribunal was right in deleting the addition. In the case of Monohar Lal Rattan Lal vs. DCIT (supra) coordinate bench of ITAT Amritsar held that wherein addition was made on the basis of unsigned agreement then no addition can be made in the hands of the assessee in this order the coordinate bench of Tribunal held that It is true that the finding of this document from the premises of the assessee had raised doubts in the mind of the AO with regard to the actual sale consideration of the said property. But it is not sufficient and enough to hold and sustain the addition. If the AO was not satisfied with the version of the assessee, it was incumbent upon him to examine the seller of the property, and ascertain the facts regarding the actual sales consideration. In the absence of having carried out any such exercise, we are satisfied that a case has not been made out for making the addition.

34. In the similar manner coordinate bench of Delhi ITAT in the case of Saamag Developers (P.) Ltd. vs. ACIT held that when the Assessing Officer has not made any independent enquiry from such persons and in the absence thereof no

addition can be made. Especially when the Assessing Officer did not bring any adverse material on record or gave a finding with cogent evidence contrary to the explanation of the assessee and has not brought any independent corroborative material suggesting that the assessee has purchased such land/property and has made payment as recorded in the seize paper. In the present case also the Assessing Officer has made addition merely on the basis of so called agreement which has not been signed by the assessee and the A.O. has not brought on record any other positive or corroborative material to show that the assessee has actually purchased property under this agreement and made payment of Rs. 54,00,000/- in cash out of books of accounts from the income earned from undisclosed sources. Therefore, we reach to a logical conclusion that the addition made by the A.O. and confirmed by the Ld. CIT(A) u/s. 69A of the Act, is not sustainable hence we direct the A.O. to delete the same.

35. Ground no. 2 of assessee is consequential regarding levy of tax u/s. 115BBE of the Act. Since in the earlier part

of this order we have allowed ground no. 1 of assessee, deleted the base addition u/s. 69A of the Act. Therefore, ground no. 2 of assessee is not being adjudicated upon being consequential and thus having become academic and infructuous. Other grounds of assessee are general in nature which do not require any adjudication.

36. It the result, ITA nos. 1533, 1534, 1535 & 1536/Del/2021 of the assessee are allowed and ITA nos. 1807 & 1808/Del/2021 of the revenue are dismissed.

Order pronounced in the open court on 19.01.2023

Sd/-	Sd/-
(NARENDRA KUMAR BILLAIYA)	(CHANDRA MOHAN GARG)
ACCOUNTANT MEMBER	JUDICIAL MEMBER

Dated: 19th January, 2023.

NV/-

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

// By Order //

Asstt. Registrar, ITAT, New Delhi