

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B', NEW DELHI**

Before Sh. Amit Shukla, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 2638/Del/2018 : Asstt. Year : 2013-14

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| Solitare World Pvt. Ltd., Shop No. 6, Second Floor, 2633 & 2634, Plot No. 2490250, Gurudwara Road, Karol Bagh, New Delhi-110005 | Vs | ACIT, Central Circle-25, New Delhi |
| (APPELLANT) | | (RESPONDENT) |
| PAN No. AAOCS1369R | | |

**Assessee by : Sh. Nirbhay Mehta, Adv. &
Sh. Hiren Mehta, CA**

Revenue by : Ms. Yagya Saini Kakkar, CIT DR

Date of Hearing: 14.03.2022

Date of Pronouncement: 31.05.2022

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of the Id. CIT(A)-17, New Delhi dated 21.11.2017.

2. The only tangible ground taken up by the assessee is as under:

"2. That on the facts and circumstances of the case and in law the Id. CIT(A) was not justified in upholding the action of AO in making addition of Rs.55,00,000/- on the basis of contents of the seized document, page - 8 of Annexure A-5/RS-1, by treating the amount as unexplained and invoking section 69C of the Income Tax Act, 1961."

3. A search and survey operation u/ s 132/133A of the Income tax Act, 1961 was carried out on 15.10 .2013 in SRM group of eases by the Investigation Wing, New Delhi. Simultaneously, a survey was carried out on M/s Shree Raj Mahal Jewellers Ltd., M/ s PLB Infrastructure Pvt. Ltd., M/ s Shree Raj Mahal Diamonds Pvt. Ltd., at 2633 & 2634, Bank Street, Karol Bagh, New Delhi wherein papers/ documents related to M/s Solitaire World Pvt. Ltd. was found and impounded. Subsequently, the case was centralized from Ward-68 (2), New Delhi u/ s 127 of the IT Act, 1961, by the jurisdictional CIT vide order F.No. CIT-B/Delhi/Centralization/2014 -15/686 dated 06 .02. 2015 and the assessment u/s 143(3) has been completed on 29.03.2016.

4. During the survey proceedings Annexure A-5, Page No.8 was impounded which shows transactions and on top of the paper 'Received A/ c' and 'Payment A/c' is written. In the said document, in the 'Received A/ c' side property description "62 /1 Ajmal Khan Park" was found mentioned. During the post survey proceedings, on being asked to explain the contents of the said document, it was submitted that the above property description belong to M/s Solitaire World Pvt, Ltd. which is a part of SRM group of company. During the assessment proceedings, the assesses was asked vide letter dated 23.02 .16 to furnish the following details with respect to aforesaid document. The letter of the Assessing Officer is as under:

- i . Explain the nature of property description 'Properly no. 1, Ajmal Khan Park' as depicted in the document and also explain as how the same is booked in the books of account for the year under consideration.
- ii . Explain the mode of payment with documentary evidence.
- iii. Provide bank details showing the aforesaid transaction.

- iv. *Provide ledger of the concerned parties with whom transaction was made along with*
- v. *copy of the agreement with these parties. Also provide the name, address and PAN of these concerned parties along with their ITR filed for the year under consideration.*
- vi. *Explain source of investment in property "Ajmal Khan Park".*

5. In response, the above said query, the assessee submitted reply dated 07.03.2016 which is as under:

" With regard to the captioned subject matter, this has reference to your notice dated 23 .02 .2016 , asking assesses to furnish information/ details pertaining to seized document marked as Annexure A- 5/ RS- 1, page 8 , found during the course of search proceedings at premises, RS- 1 , 2633 & 2634 , Bank Street, Karol Bagh, Delhi. In this regard, on behalf of and under instructions from our subject client, it is submitted is as under:

With regard to above, it is submitted that contents of Page no. 8", RS- 1/ A- 5 are similar & overlapping with contents of Page- 4 & 5 of RS- 1 / A- 5 on which rent received from certain properties is mentioned. During the post search investigation, vide letter dated 28 . 01 .2014 , the assessee has reconciled figures on seized pages with rent accounted for in books of accounts. The balance amount of Ms, 11J 7,000/- has been surrendered as undisclosed Income."

6. After going through the replies, the Assessing Officer held that the assessee failed to reconcile the amounts mentioned therein with its books of accounts. It was held that the assessee has only mentioned that figures on seized Pages were reconciled with some other page and rent accounted for in books of accounts and accordingly, an amount of Rs. 11,17,000 /- has been surrendered on the basis Annexue A-1 seized, from

premises R-4 for pages 4-6 , As far as the impounded document is concerned, the assessee admitted that the amounts are written in thousands and accordingly made the surrender. In the same manner, in this document also, the amounts are bound to be mentioned in thousands. Hence, the amount of Rs.55 ,00,000 /- and an amount of Rs.20,00 ,000/- totaling to Rs.75 ,00,000 /- has been added to the total income of the assessee based on the notings on the documents on 04 /12 being 5500 and 2000 CHQ.

7. Aggrieved the assessee filed appeal before the Id. CIT(A).

8. The Id. CIT(A) gave remission of Rs.20 ,00,000 /- paid by cheque as forming part of the regular books of accounts. The relevant portion of the Id. CIT(A) is as under:

Ground no.2 for the AY 2013- 14 relates to contention of the appellant against addition of Rs. 75, 00 , 000/- made by the AO. The fact of the case is that the AO made addition on the basis of contents of a document, annexure A- 5, page no.8 impounded during the course of survey action, in which certain transactions was mentioned. This document was impounded from the office premises of the appellant In the said document unexplained expenditure of Rs.55 lacs and Rs.20 lacs respectively was noted, since, the source of the impugned expenditure remained unexplained before the AO, therefore, he made addition of the same under section 69C of the IT Act.

5.1 *The appellant has submitted as under:-*

" 1 . Ground No. 2 of the appeal memo pertains to the action of the Assessing Officer in making an addition of Rs. 75, 00 ,000/- on the basis of contents of seized documents Page 8 of Annexure A5/RS1.

2. *Vide earlier written submissions it has been contended that the figures mentioned on the seized documents are mere rough jottings not warranting addition of any kind. Further, to the same, it is submitted that the seized documents contains the following information :-*

62/ 1 Ajmal Khan Park

4/12 5500

4/12 2000 - CHQ

From the above reproduced contents, it is clear that the payment of Rs. 20, 00, 000/- has been effected by cheque and therefore it has been reflected in the books of accounts. Without prejudice to the submissions made earlier, it is contended that under no circumstances amount of Rs.20 ,00 ,000/- can be added as unexplained expenditure / investment since the said amount has been paid by cheque and is forming part of regular books of accounts. In substantiation of the same, it is explained that the aforesaid payment of Rs. 20 , 00 , 000/- was made by the sister concern M/ s Krishna Jewellers on behalf of the appellant company to M/ s SKG Doors Pvt. Ltd. on 04 . 12 . 2012 . A copy of Ledger account is enclosed herewith at Page 1 . Further, a copy of bank statement reflecting corresponding debit of an amount of Rs. 20 , 00 ,000/- in bank account with Federal Bank is enclosed herewith at Page 2 "

I have considered the facts and circumstances of the case, submission of the appellant and perused the order of the AO. I find that so far as Rs, 20 , 00 , 000 /- cheque, is concerned, the same was paid by cheque which is forming part of the regular books of accounts. The said payment was made by M/ s Krishna Jewellers on behalf of the appellant to M/ s SKG Doors P. Ltd. on 04 . 12 . 2012 which is verifiable from the ledger account as well as bank statement, however, the appellant has failed to explain the source of Rs. 55 , 00 , 000 /- either before the AO or before me by fil ing the supporting documents which was spent in cash. Under these

circumstances 7 +am of the considered view that so far as the expenditure of Rs. 20 , 00 , 000 /- paid in cheque is concerned, since, the appellant could explain the source of the same by filing supporting documents but source of the balance expenditure of Rs. 55 , 00 , 000 /- remained explained, therefore, the AO is directed to restrict the addition to Rs. 55 , 00 , 000 /- as against Rs. 75 , 00 , 000 /-, thereby, the appellant gets part relief on this ground."

9. The revenue accepted the decision of the Id. CIT(A) on the issue of remission of Rs.20 ,00 ,000/- and no appeal has been filed. Aggrieved the assessee filed appeal before the Tribunal against the confirmation of Rs.55,00,000/-.

10. Before us, the Id. AR argued that the entries cannot be read in isolation but they have to be read holistically. It was argued that the total receipts on the said impounded page have to be taken into consideration. It was argued as per the page the total receipts (Received A/ C) were to the tune of Rs.2 ,19,70 ,000/- whereas the total expenditure (Payment A/C) was Rs.3,32,89,000/- (Payment A/C).

11. He relied on the orders of the Co- ordinate Bench of ITAT in the case of D. Suresh Vs. ACIT in ITA Nos. 462 & 463/Bang./2020, ACIT Vs Sharad Chaudhary 55 Taxmann.com 324 and the judgment of Hon' ble Kolkata High Court in the case of Pr. CIT Vs. Ajanta Foot Care 84 Taxmann.com 109.

12. On the other hand, the Id. DR relied on the order of the Id. CIT(A). Placing reliance on the Id CIT(A)'s order and that no explanation was provided in appellate proceedings nor any supporting document was adduced as regards to the figure of 5500 as stated by CIT(A) in para 5.2 of impugned appellate order dated 21.03.2018. It was argued that the assessee has

not explained as to the source of Rs.55 lacs and the additions under section 69 C of the Act are, therefore, justifiable and may kindly be upheld. The Id. DR's written submissions are as under:

" 1 .2 . Reliance on AO's order page 2 , para 9 where assessee has himself admitted that jottings are written by him, further AO has stated that that assessee has been unable to reconcile entries with his books of accounts despite being given ample opportunities as stated in penultimate & penultimate line of para 9 of assessment order.

13. . CIT vs. Babulal Nim (1963) 47 ITR 864 (MP), does not enable the assessee or the department to tender fresh evidence to support a new point or to, make out a new case in appellate proceedings.

14. . Circumstantial evidence that assessee has also surrendered in para 9 of Rs.11.17 lacs

ii) The fact that jottings were explained as regards material extent and relevant to additions made and are corroborated by assessee's plea himself and his explanation.

iii) The Hon' ble Madras High Court in the case of Sunil Balasubramaniam Shankar vs. Income Tax Officer, Non Corporate Ward 18(3) [2019] 107 taxmann.com 55 ,. Having heard the learned counsel for the parties, we are satisfied that no substantial question of law arises in the present Appeal requiring our further consideration under Section 260A of the Act. The very nature of the transactions involved in the present case by allowing usage of 5 Credit Cards by the Assessee to his alleged friend Mr. Neelamegan and the credit entries given through various Firms named above, in the bank account of the Assessee, created suspicion in the mind of the Assessing Authority and therefore, they called upon the Assessee to prove such credit entries. Despite the opportunity, by way of

second round of litigation, provided by the learned Tribunal, it appears that the Assessee failed to prove the credit entries.

6. We are also unable to appreciate the usage of credit cards in the name of the Assessee by third party, which requires signatures of the person concerned using such Credit Cards. Apparently, therefore, all those transactions were undertaken by the third parties on behalf of the Assessee himself and therefore, the defence pleaded by the Assessee that they were allegedly loan taken by Mr. Neelamegan and repayments made by him to the Bank: account of the Assessee does not inspire any confidence. In our opinion, therefore, the fact finding Body below have rightly added the said amount in the hands of the Assessee as unexplained income/ expenditure of the Assessee. Such addition does not appear to be perverse requiring our consideration under Section 260A of the Act...''

The Co- ordinate Bench of ITAT in the case of Somabhai Ambaalal Prajapati Vs. Assistant Commissioner of Income- tax, Central Circle-2(2), Ahmadabad [2017] 88 taxmann.com 369 (Ahmadabad - Trib.)

4.Ld. Counsel for the assessee contends as under:—

- (i)) The incriminating paper based on which the addition was madewas a dump document and a rough paper;*
- (ii)) Exact contents of the paper were neither opinion of the assessee nor the Assessing Officer could explain them;*
- (ii) This amount was deducted from opening cash balance which has arisen on account of cash receipts on sale of land.*

4.1 1 Ld. Counsel for the assessee further contends that the joint cash flow statement of three brother viz. Shri Somabhai Ambalal Prajapati, Chandubhai Ambalal Prajapati & Vishnubhai Ambalal Prajapati was filed, out of which joint withdrawal of Rs.5 lakhs in the month of February 2003 was] not accepted as cash in hand on the

point that when the assessee was having cash in hand, there would be no reason to withdraw the funds from the bank. Therefore, the amount of Rs. 5 lakhs was split into Rs. 1,66,666/- and disallowed in the hands of three brothers.

4.2.2. Apropos unaccounted sales it is contended that entire sales cannot be treated as net profit and the GP should be applied. Reliance is placed on following judgments of Hon'ble jurisdictional High Court:—

(i)) CIT vs. President Industries [2002] 258 ITR 654/ 124 Taxman 654 (Guj.)

(ii)) Pipush Kumar O. Desai vs. CIT [2001] 247 ITR 568/ 114 Taxman 281 (Guj.)

5. Ld. DR relied on the orders of Id. CIT(A). It is contended that the findings of Id. CIT(A) are pure finding of facts on the peculiar facts and circumstances of these cases, therefore, the case laws cited by assessee being on different facts cannot be applied in the absence of factual parity.

6. I have heard the rival contentions, perused the material available on record and gone through the orders of the authorities below. Adverting to the appeals of Somabhai Ambaalal Prajapati & Chandubhai Ambalal Prajapati for A. Y. 2004- 05, the assesseees could not explain as to how the amount of Rs. 5 lakhs withdrawn from the common bank account was utilized. Looking at the entire facts and circumstances, the issues were to be decided on surrounding circumstances and human conduct. The burden to prove the cash entries is on the assessee since the requisite burden has not been discharged by the assessee in this behalf in view thereof, the orders of the Id. CIT(A) on this issue are upheld. Thus, assesseees' appeals are dismissed.

The Hon' ble Punjab & Haryana High Court in the case of Commissioner of Income- tax- II, Chandigarh vs. Narender Kumar 55 taxmann.com 371 (Punjab & Haryana) held that,

"..9 . A perusal of the report reveals that the inspector could not find these firms/ entities. Upon receipt of the report and as recorded in the order passed by the assessing officer, the assessee was afforded an opportunity to produce the concerned persons so as to prove the genuineness of the bills. The assessee filed replies which were primarily rejected on the ground that the assessee could not prove the existence of these parties. A relevant extract from the assessment order reads as follows:—

" The reply submitted by the assessee has been considered and is not acceptable. The assessee not only failed to produce the said persons but was also not able to provide the PAN No./ Sales Tax No. or Pollution Clearance certificate of these parties from which he has claimed to have made substantial purchase which have been made in cash. Further, the suppliers mentioned have addresses which are clearly mentioned on their respective bills. Spot verification carried out has clearly shown that no such parties existed at those addresses even in the year under consideration. Thus the contention of the assessee that they were present on- site is not also acceptable.

It is also worth mentioning that notices u/ s 133(6) of the Income- tax Act, 1961 for furnishing of information were also sent to the above mentioned concerns requiring them to provide a copy of the ledger of M/ s. Harsoria Construction Co. These letters returned to the office undelivered."

The Tribunal, however, has not dealt with this aspect nor has it chosen to record any opinion on the failure of the assessee to produce these parties or to prove their existence or to rebut the

report prepared by the inspector but abruptly directed the assessing officer to apply a net profit rate of 6%, without assigning any ostensible reason. The Tribunal having ignored relevant facts, in our considered opinion, has committed an error of jurisdiction. We would like to clarify that we are not recording any opinion as to the legality or otherwise of the bills, the vouchers and the expenses etc. particularly as the assessee who is a contractor must have purchased some material but as the Tribunal has directed assessment at a net profit rate without examining the material on record, referred to in detail by the assessing officer particularly the paragraphs extracted hereinbefore, the questions of law have to be answered in favour of the revenue by holding that the Tribunal has erred in applying a net profit rate without considering the material collected by the assessing officer and by ignoring relevant facts and factors referred to lay the assessing officer, thereby leading to miscarriage of justice and an error of jurisdiction that must necessarily be rectified by the Tribunal itself.

The Delhi Special Bench of ITAT in the case of CIT Vs. Subhash Verms 125 TTJ 865, the Id. CIT(A) deleted this addition by following observations:

"A sum of Rs. 3,05,000 has been added by the AO on account of cash payments made for LIC. The AO in his order has stated that the assessee had obtained a loan of Rs. 3,60,000 from the LIC and paid an interest of Rs. 6,17,000. The assessee paid Rs. 3,05,000 in cash and did not have any explanation regarding the sources from which these payments have been made. In appeal it has been stated that there is no seized material to suggest the payment as contended by the AO.

The issue has been examined. It is not disputed by the appellant that a sum of Rs. 3,05,000/- has indeed been paid in cash to LIC as repayment of loan. It is also without dispute that the appellant does

not have any explanation regarding the sources of these payments made to LIC, under the circumstances the AO was fully justified in treating a sum of Rs. 3,05,000/- as undisclosed income of the appellant. The addition is confirmed."

103. . Learned Departmental Representative supported the order of CIT(A).

104. . Learned counsel for the assessee contends that the addition is unjustified.

105. . We have heard the rival contentions and perused the material available on record. In the given facts, we are inclined to dismiss this ground of the assessee inasmuch as the assessee did not furnish any explanation before any of the authorities, in respect of repayment of LIC loan of Rs. 3,05,000/- in cash hand nothing has been explained before us as well.

The Hon' ble Madras High Court in the case of Grand Bazaar Vs. ACIT 166 Taxman 232 held that " in the present case, the assessee had not explained as to the source of purchases and the additions under section 69C of the Act are, therefore, sustainable. Further, the Commissioner of income- tax (Appeals) is not justified in reducing/ deleting the additions. As rightly observed by the Tribunal, the funds introduced by the assessee as cash credits in the books of account had gone into the assessee' s business account and so, the same could not have been utilised for making the unaccounted purchases and the assessee could not be given credit to any amount already introduced as credits in the account books as available to meet any unaccounted expenditure including the unaccounted purchases. We are, therefore, of the opinion that the Tribunal was justified in restoring the additions under section 69C of the Act for both the assessment years..."

The Hon' ble Supreme Court in the case of Sushil Bansal Vs. PCIT 115 taxmann.com 226 (SC) which upheld [2020] 115 axmann.com 225 (Delhi) HIGH COURT OF DELHI in Sushil Bansal vs. PCIT wherein it was stated " 1. This Court is unable to agree with the above submissions. The Court finds that the AO has taken pains to summon Shri Bhati, the father- in- law of the Assessee and record his statement. Unfortunately, the statement made by the Assessee' s father- in- law was not helpful in explaining the source of payment of Rs. 2 .3 lacs as capitation fees. Shri Bhati only explained the payment of Rs.7 . 18 lacs as regular fees. With there being no credible explanation offered by the Assessee for the payment made as capitation fee, the AO is justified in adding it to the Assessee' s income."

The Hon' ble Supreme Court in the case of Pradeep Kumariyani Vs. ITO 101 taxmann.com 131 held that " in fact, the order of CIT (A) which is elaborate, refers to other materials collected during the course of survey such as gross profit rate in the line of business done by the assessee. It was noticed that the gross profit declared by the assessee was much lesser than the profit in the trade. CIT (A) also noted that during the survey as well as after the survey, assessee failed to submit the stock reconciliation. He had in fact conveyed that no stock was maintained. The assessee had failed to provide stock register despite several opportunities. Inter alia on such grounds, the CIT (A) had confirmed the addition. It is true that the Tribunal has discussed the issue somewhat briefly. Nevertheless, the Tribunal has observed that the information given by..."

The Hon' ble Madras High Court in the case of Thiru S. Shyam Umar Vs. Assistant Commissioner of Income- tax, Central Circle- III(3), Chennai 99 taxmann.com 39 held that " 8 . The argument of the learned Counsel for the assessee is that there should be corroborative evidence to sustain the entries to link the same and

treat it as an un- explained investment to bring the case under Section 69 of the Act. In our considered view nothing more is required than the facts, which were considered by the Assessing Officer as well as the Commissioner of Income Tax (Appeals) and the Tribunal. The notings are clear and it is not any scribbling, which shows the figures and also shows whether the payments were in cash or in cheque. The retraction made by the assessee, after a period of two years, was rightly rejected as an afterthought. As held in the case of T. Rangroopchand Chordia (supra), the loose sheets are also ' documents'. In terms of Section 2 of the Indian Evidence Act, 1872 , they can be relied upon. In fact, the Division Bench took into consideration whether the loose sheets seized from the premises of the assessee would constitute ' documents', within the meaning of exception under Sub- Section (4) of Section 132 of the Act and has held as follows:

" 21. Coming to the two questions of law now before us, it is seen that they revolve around the loose sheets picked up during search. These loose sheets are documents within the meaning of section 2 of the Indian Evidence Act. It reads as follows:-

" Document means any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter."

22 . It is relevant to note that this definition is a re- production in Section 3(18) of the General Clauses Act. Therefore, it is clear that loose sheets recovered from the premises of the assessee constitute documents within the meaning of the explanation under Sub- section (4) of Section 132 . Sub- section (4) of Section 132 speaks about the admissibility of evidence of those documents. Sub- section (4) together with the explanation thereunder to section 132 reads as follows:

"(4) The authorized officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books of account, documents, money, bullion, jewellery or other valuable article or thing and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act."

Explanation:- For the removal of doubts, it is hereby declared that the examination of any person under this sub- section may be not merely in respect of any books of account, other documents or assets found as a result of the search, but also in respect of all matters relevant for the purposes of any investigation connected with any proceeding under the Indian Income- tax Act, 1922(11 of 1922) or under this Act.

23. . Therefore, in the light of the definition of the expression ' document' and in the light of admissibility of the said document based upon the statements made by the assessee, the additions made by the Assessing Officer cannot be found fault with. Though there was a retraction of those statements by the assessee, those retractions were rightly rejected on the appreciation of the return filed on 27 .09 .2002 where admittedly, a particular amount was shown as undisclosed income. Therefore, the retraction is of no avail in light of section 132(4) and its Explanation. In view of the above, the question of law are answered in favour of the appellant/ Department and the appeal is allowed. No costs."

13. Heard the arguments of both the parties and perused the material available on record.

14. We find that the case quoted by the Id. DR of the Hon' ble Madras High Court in the case of S.S. Shankar Vs. ITO (107

Taxmann 55) dealt with issue of expenditure on credit cards which is not applicable to the facts of the instant case before us.

15. Similarly, in the case of S. A. Prajapati Vs. ACIT, CC-22 , Ahmadabad (88 Taxmann 369) dealt with cash withdrawals. Hence, not applicable to the facts of the instant case before us.

16. CIT Vs. Narendra Kumar Gupta (55 Taxmann 371) dealt with the issue of bogus bills, hence, not applicable to the facts of the instant case before us. ACIT Vs. Subhash Verma (125 TTJ 865) deals with the issue of cash loans and subsequent payment to LIC. Hence, not applicable to the facts of the instant case before us.

17. Grand Bazar Vs. ACIT (166 Taxmann 232) dealt with the issue of cash credits in the books of account. Hence, not applicable to the facts of the instant case before us.

18. Similarly, the Id. DR's reliance on the judgment of Hon' ble Apex Court in the case Pradeep Kumar Vs. ITO (101 Taxmann 131) is not applicable to the facts of the instant case as the said judgment of the Hon' ble Apex Court dealt with the gross profit rate and the stock reconciliation.

19. In the instant case, the impounded material reflects receipts and payments and the assessee has already paid the difference of the amounts to taxation after going through the entire set of papers. The property 62/1 , Ajmal Khan Park has been purchased on 08.11.2012 whereas the notings reflect 04.12.2012. The transaction of purchase of the said property has culminated on 08.11.2012. Hence, the probability of any

payment post, purchase of a property is also ruled out. The assessee has offered to tax the amount on account of the payments A/ c and receipts A/ c. The case laws relied upon by the revenue are not applicable to the facts of the case. Reliance is being placed on the order of the Co-ordinate Bench of ITAT in the case of D.S. Suresh Vs. ACIT in ITA No. 462 & 463/Bang./2020 wherein it was held that there should be material on record to show that there is an undisclosed income on the basis of material on hand with the Assessing Officer and guess work is not possible. The Assessing Officer shall have the basis for assuming that the assessee has not disclosed the income for taxation. Reliance was also placed on the decision of Hon' ble Supreme Court in the case of CBI Vs. V.C. Shukla 3 SCC 410. In the case of ACIT Vs. Sharad Chaudhary in 55 Taxmann 324, it was held that the loose paper found on standalone could not be used as a basis for making the addition without the company of any other supportive material and evidence, more so when the contents were not interlinked. Hence, keeping in view the fact that the assessee has offered the amounts mentioned on the impounded material which has been accepted by the revenue and also keeping in view that revenue has not brought anything on record to prove that the assessee is liable to pay the taxes more than what has been already disclosed and also keeping in view the fact that the transactions of Ajmal Khan Park, 62 /1 stands culminated, we hereby direct that the addition made be deleted.

20. In the result, the appeal of the assessee is allowed.
Order Pronounced in the Open Court on 31/05/2022.

Sd/-

(Amit Shukla)
Judicial Member
Dated: 31/05/2022

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR