

Amrutbhai Babaldas Patel,Ahmedabad vs Acit, Central Circle-1(3), Ahmedabad on 14 May, 2026

IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, AHMEDABAD
BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
& SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER

I.T(SS).A. Nos. 163&164/Ahd/2024
With
C.O. Nos. 47&48/Ahd/2024
(Assessment Years: 2019-20 & 2020-21)
Dilip Prasad Vs. Alap Somabhai Patel,
Assistant Commissioner of Income Tax, 13, Shubhash Society, Nr.
Central Circle-1(3), Ahmedabad Ishwarbhuwan, Navrangpura,
Ahmedabad-380009
[PAN No.AETPP8910M]
(Appellant/Respondent) .. (Respondent/Cross Objector)

I.T(SS).A. Nos. 169&170/Ahd/2024
With
C.O. Nos. 49&50/Ahd/2024
(Assessment Years: 2019-20 & 2020-21)
Dilip Prasad Vs. Dahiben Somabhai Patel,
Assistant Commissioner of Income Tax, 13, Saumulikshubha SH Societ y,
Central Circle-1(3), Ahmedabad B/h. Ishwar Bhuvan,
Navrangpura,
Ahmedabad-380009
[PAN No.ADGPP9541C]
(Appellant/Respondent) .. (Respondent/Cross Objector)

I.T(SS).A. Nos. 159&160/Ahd/2024
With
C.O. Nos. 45&46/Ahd/2024
(Assessment Years: 2019-20 & 2020-21)
Assistant Commissioner of Income Tax, Vs. Amrutbhai Babaldas Patel,
Central Circle-1(3), Ahmedabad D-201, Sh yam Paradise Science
Cit y Road, Nr. AUDA,
Water Tank Sola, Daskroi,
Ahmedabad-380060
[PAN No.ACCPP3868K]
(Appellant/Respondent) .. (Respondent/Cross Objector)
IT(SS)A Nos. 163/Ahd/2025 & 30 others
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I.T(SS).A. Nos. 157&158/Ahd/2024
With
C.O. Nos. 55&56/Ahd/2024
(Assessment Years: 2019-20 & 2020-21)
Dilip Prasad, Vs. Mita Sanjay Sheth,

Assistant Commissioner of
Income Tax,
Central Circle-1(3),
Ahmedabad
[PAN No.ACKPP7025L]
(Appellant/Respondent) .. (Respondent/Cross Objector)

13, Shubhash Society, Nr.
Ishwar Bhawan, Ahmedabad-4,
Ahmedabad City, Navrangpura
H.O., Gujarat-380009

I.T(SS).A. Nos. 171&172/Ahd/2024

With

C.O. Nos. 51&52/Ahd/2024

(Assessment Years: 2019-20 & 2020-21)

Dilip Prasad, Vs. Nima Somabhai Patel,
Assistant Commissioner of 13, Shubhash Society, B/h.
Income Tax, Ishwar Bhawan, Ahmedabad-4,
Central Circle-1(3), Ahmedabad City, Navrangpura
Ahmedabad H.O., Gujarat-380009
[PAN No.ACMPP1832B]
(Appellant/Respondent) .. (Respondent/Cross Objector)

I.T(SS).A. Nos. 173/Ahd/2024

With

C.O. Nos. 53&54/Ahd/2024

(Assessment Years: 2019-20 & 2020-21)

Dilip Prasad, Vs. Gordhanbhai Babaldas Patel,
Assistant Commissioner of 5, Tirupati Society, Thol Road
Income Tax, Kadi, Kadi S.O., Mehsana,
Central Circle-1(3), Gujarat-382715
Ahmedabad
[PAN No.ACCPP5076H]
(Appellant/Respondent) .. (Respondent/Cross Objector)

IT(SS)A Nos. 163/Ahd/2025 & 30 others
Asst. Year -2019-20, 2020-21 & 2021-22
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I.T(SS).A. Nos. 161/Ahd/2024

(Assessment Year: 2020-21)

Dilip Prasad, Vs. Amathabhai Bababhai Patel,
Assistant Commissioner of Kalindi Flat, Mansa, Mansa
Income Tax, Bazar S.O., Gandhi Nagar,
Central Circle-1(3), Gujarat-382845
Ahmedabad
[PAN No.ACCPP5080D]
(Appellant) .. (Respondent)

I.T(SS).A. Nos. 179&180/Ahd/2024

(Assessment Years: 2019-20 & 2020-21)

Assistant Commissioner of Vs. Sonal Rajesh Khandwala,
Income Tax, 136, Paraskunj Society,
Central Circle-1(3), Ahmedabad City, Azad Society,
Ahmedabad S.O. Ahmedabad-380015
[PAN No.AFZPK5288C]

(Appellant) .. (Respondent)

I.T(SS).A. Nos. 108/Ahd/2024

(Assessment Year: 2021-22)

Alap Somabhai Patel, Vs. Deputy Commissioner of
13, Subhash Society, Income Tax,
Nr. Ishwarbhuvan, Navrangpura, Central Circle-1(3),
Ahmedabad-380009 Ahmedabad

[PAN No.AETPP8910M]

(Appellant) .. (Respondent)

I.T(SS).A. Nos. 106/Ahd/2024

(Assessment Year: 2019-20)

Mita Sanjay Sheth, Vs. Deputy Commissioner of
A-23, Jal Vihar Flat, B/h. Ajanta Income Tax,
Commercial Centre, Ashram Central Circle-1(3),
Road, Ahmedabad-380014 Ahmedabad

[PAN No.ACKPP7025L]

(Appellant) .. (Respondent)

IT(SS)A Nos. 163/Ahd/2025 & 30 others
Asst. Year -2019-20, 2020-21 & 2021-22

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I.T(SS).A. Nos. 174/Ahd/2024

(Assessment Year: 2020-21)

Dilip Prasad, Vs. Gordhanbhai Babaldas Patel,
Assistant Commissioner of 5, Tirupati Society, Thol Road
Income Tax, Kadi, Kadi S.O., Mehsana,
Central Circle-1(3), Gujarat-382715
Ahmedabad

[PAN No.ACCPP5076H]

(Appellant) .. (Respondent)

I.T(SS).A. Nos. 162/Ahd/2024

(Assessment Year: 2020-21)

Dilip Prasad, Vs. Chandubhai Babaldas Patel,
Assistant Commissioner of A-202, Sunshine Fortune,
Income Tax, Gandhinagar, Sector 7 S.O.,
Central Circle-1(3), Gandhinagar,
Ahmedabad Gujarat-382007

[PAN No.ACCPP3864F]

(Appellant) .. (Respondent)

I.T(SS).A. Nos. 107/Ahd/2024

(Assessment Year: 2021-22)

Amrutbhai Babaldas Patel, Vs. Deputy Commissioner of
D-201, Shyam Paradise, Science Income Tax,
City Road, Sola Daskroi, Central Circle-1(3),
Ahmedabad-380060 Ahmedabad

[PAN No.ACCPP3868K]

(Appellant) .. (Respondent)

Appellant by : Shri Darshan B. Gandhi, Advocate

Respondent by: Shri Rignesh Das, CIT-DR

Date of Hearing 07.05.2026

Date of Pronouncement 14.05.2026

IT(SS)A Nos. 163/Ahd/2025 & 30 others
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ORDER

PER BENCH:

These bunch of appeals have been filed by the Revenue and the Cross Objections have been filed by the assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals)-11, (in short "Ld. CIT(A)"), Ahmedabad vide orders dated 14.08.2024, 16.08.2024 passed for A.Ys. 2019-20 & 2020-21. All the present appeals before us are broadly connected with the search conducted on the 'Popular Group Ahmedabad' and accordingly, since the facts of issued for consideration are common / interrelated with respect to the present appeals before us, all appeals are being taken up together.

2. All the appeals and the Cross Objections are time barred by minimal days. The Revenue and the Assessee filed an Affidavit and explained the reason. The delay is condoned looking into the smallness of delay causing no perceptible prejudice to the other side and in the interest of justice.

We shall first start with Department's Appeal in the case of Alap Somabhai Patel for A.Y. 2019-20 in IT(SS)A No. 163/Ahd/2024 (Department's Appeal) and the Cross Objections in C.O. No. 47/Ahd/2024 (Assessee's Cross Objection)

3. The Revenue has taken the following grounds of appeal:

IT(SS)A No. 163/Ahd/2024 (A.Y. 2019-20) "1. The Ld. CIT(A) has erred in deleting the addition of Rs.3,55,69,687/- made by the Assessing Officer u/s. 69A of the Income Tax Act on accounting of on-money received by the assessee towards his share in the non-agricultural land at Godhavi sold to the builder group.

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2. The Ld. CIT(A) has erred in deleting the addition ignoring the incriminating documents found during the course of search at the assessee's premise and written in the assessee's own hand writing, not appreciating the detailed analysis made by the A.O. in the assessment order.

3. The Ld. CIT(A) has erred by deleting the addition by relying on his own decision in the case of one of the buyers Smt. Sonal Rakesh Khandwala ignoring that any argument put forth by the

purchaser/investor will be self-serving and the incriminating evidences found and seized in the assessee's premise cannot be ignored.

4. The Revenue craves leave to add/alter/amend and/or substitute any or all of the grounds of appeal."

4. The assessee has raised the following grounds of appeal in Cross Objection:

C.O. No. 47/Ahd/2024 (A.Y. 2019-20) "1. The Assessing Officer (AO) has not complied with the provisions of Sec. 153D of the Act. AO passed Assessment Order without obtaining valid approval u/s. 153D of the Income Tax Act. The approval granted u/s. 153D should be after application of mind and not mechanically. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

2. The Assessing Officer (AO) had not made any independent inquiry u/s 133(6) or by issuing summon u/s 131 of the Act from the purchaser with respect to alleged on-

money paid for purchase of land at Godhavi of Rs. 3,55,69,687/- to appellant. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

3. Your appellant also reserves its right to submit details in connection with the aforesaid additions / disallowances as fresh evidence as per Rule 46A of the I.T. Rules, 1962 at the time of hearing of this appeal.

4. Your appellant craves liberty to add, to alter, to modify, to amend or to withdraw / delete any of the grounds of appeal at any time, on or before the hearing of appeal."

5. The brief facts of the case, as borne out from the assessment order, are that the assessee, Shri Alap Somabhai Patel, filed his return of income for A.Y. 2019-20 under section 139(1) of the Income-tax Act on 24.06.2020 declaring total income of 10,29,860/-. Subsequently, a search and seizure action under section 132 was carried out on 08.10.2020 in the case of IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

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"Popular Group, Ahmedabad" and the assessee was also covered in the said search proceedings. Consequent to the search action, notice under section 153A was issued on 06.07.2021 calling upon the assessee to furnish return of income for the relevant assessment year. In response thereto, the assessee filed return under section 153A on 04.08.2021 declaring the same income as originally returned. Notices under sections 143(2) and 142(1) of the Act along with questionnaires were issued during the course of assessment proceedings.

6. During the course of search proceedings at the residential premises of the assessee, various loose papers, handwritten sheets and digital documents were found and seized. The central incriminating material relied upon by the Assessing Officer was Annexure A-6, Page-10, which contained handwritten numerical calculations and rough notings. The Assessing Officer noted that in the statement recorded under section 132(4), the assessee admitted that the handwriting on the seized page was his own and that the figures mentioned therein were in crores. The seized page allegedly contained entries such as "Godhavi $34000 \times 25000 = 85 \text{ Cr}$ ", together with other figures of "40" and "30", besides several names and loan-related notings appearing on the left-hand side.

7. The Assessing Officer interpreted the left-hand side of the seized page as representing liabilities, debts, loans to be repaid and investment outflows, whereas the right-hand side was interpreted as representing inflow of funds arising from sale of lands situated at Godhavi village in Ahmedabad district. According to the Assessing Officer, the seized page contained calculations relating to actual consideration received by the assessee from various land IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 8- transactions undertaken in Godhavi during the period F.Y. 2018-19 and F.Y. 2019-20.

8. The assessment order records that during the course of statement under section 132(4), the assessee had explained that he had entered into various land transactions in Godhavi region and had sold several parcels of land along with family members and co-owners. The Assessing Officer extracted portions of the statement wherein the assessee admitted that he had recently sold lands in Godhavi and that the transactions were reflected in books of account and sale deeds. The Assessing Officer observed that although the assessee tried to explain the entries as projections relating to investments and liabilities, the statement itself established that the seized page related to actual land transactions. According to the Assessing Officer, the assessee had acknowledged that the figures were in crores and that the calculations pertained to land dealings.

9. To verify the contents of the seized document, the Assessing Officer conducted independent enquiries from the AnyROR database and identified several sale transactions involving the assessee and his family members in Godhavi village. The Assessing Officer tabulated the transactions survey-wise and purchaser-wise. These transactions included Survey Nos. 958, 957, 952, 953, 960/2, 907/2, 908/2 and 944. The lands were sold to parties such as Rajesh Balvantbhai Brahmhatt, Rupesh Balvantbhai Brahmhatt, Jankhit Chandubhai Prajapati, Janak Janki Infrastructure LLP and others. The total land area involved in the transactions was approximately 63,782 sq. meters and the aggregate documented consideration recorded in sale deeds was around 14.91 crore.

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10. The Assessing Officer thereafter compared the seized calculations with the actual land sale transactions. It was observed that the seized notation " $34000 \times 25000 = 85 \text{ Cr}$ " corresponded broadly to one set of land transactions aggregating approximately 35,089 sq. meters. Applying the

same rate of 25,000 per sq. meter to the remaining clusters of land sold, the Assessing Officer computed the consideration of other transactions at 37.17 crore and 26.73 crore respectively. On this basis, the Assessing Officer arrived at a total estimated actual sale consideration of 151.63 crore as against documented sale consideration of only 13.26 crore. According to the Assessing Officer, the figures "85", "40" and "30" appearing on the seized paper corresponded to actual consideration received by the assessee in respect of three sets of Godhavi land deals and clearly represented on-money receipts.

11. The assessee was issued a detailed show-cause notice confronting him with the seized material, his statement recorded under section 132(4), and the correlation made by the Assessing Officer between the seized notings and the actual land transactions. In reply, the assessee furnished an elaborate explanation running into several pages. The assessee contended that the Assessing Officer had completely misconstrued the seized notings and had ignored the context in which the paper was prepared.

12. The assessee explained that serious family disputes had arisen after he sold ancestral and family-owned lands situated at Godhavi, Shilaj, Ghuma, Makarba and other places. According to the assessee, on the occasion of Rakshabandhan on 03.08.2020, his mother and sister strongly objected to the sale of family properties and demanded that he reacquire equivalent IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 10- agricultural lands in Godhavi in future. The assessee stated that due to financial difficulties he was unable to immediately buy lands at Godhavi and therefore he prepared projections showing future investments and estimated future land prices. It was contended that the figure "34000" represented approximately 34,000 sq. yards being the share of his mother and sister in the Godhavi lands earlier sold by him. The figure " 25,000" was claimed to be only an estimated future purchase rate which, according to the assessee, Godhavi lands may command after five years. Accordingly, the figure " 85 crore" was stated to be merely a projected future investment required for reacquiring equivalent land for family members.

13. The assessee further explained that the figure " 40 crore" represented the estimated value of lands and properties already held by the family as on 31.03.2020, whereas the figure " 30 crore" represented future proposed investments in lands situated at villages Palodia, Khatraj and Sanavad. According to the assessee, the entire page represented rough projections of future investments, liabilities, debts and loans and had no relation whatsoever with actual sale consideration received from Godhavi lands.

14. The assessee heavily relied upon his statement recorded under section 132(4) to contend that he had never admitted receipt of unaccounted cash consideration. It was specifically argued that in reply to Question No.14 during search, the assessee had categorically stated that the seized pages represented projections of "debts, investments, loans taken and loans to be taken". The assessee also emphasized that he had nowhere admitted that the figures represented actual sale consideration or cash receipts from land transactions. According to the assessee, the Assessing Officer selectively IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 11- relied upon portions of the statement while ignoring the complete explanation offered during search itself.

15. The assessee also sought to demonstrate that the chronology itself disproved the Assessing Officer's theory. It was pointed out that the Godhavi land transactions had taken place between 02.11.2018 and 17.10.2019, whereas the seized paper was allegedly prepared only after Rakshabandhan i.e., after 03.08.2020. Thus, according to the assessee, the paper was prepared nearly 10 to 24 months after the sale transactions had already been completed. The assessee argued that no prudent person would keep unaccounted receivables outstanding for such long periods after execution of registered sale deeds. This factual aspect was strongly emphasized by the assessee to show absence of nexus between the seized paper and completed land sales.

16. The assessee further submitted that no corroborative evidence whatsoever was found during search evidencing receipt of cash consideration. It was argued that even in the search conducted on purchasers such as Jankhit Chandubhai Prajapati and Rajesh Brahmhatt, no incriminating material was found showing payment of on-money at the alleged rate of 25,000 per sq. meter. According to the assessee, neither cash trail, nor diaries, nor digital evidence, nor confirmations from buyers were found during search. It was therefore argued that the entire addition was based merely on assumptions and mathematical estimations made from a rough handwritten projection sheet.

17. The assessee also attempted to rebut the Assessing Officer's calculations by pointing out that the total land sold by the assessee group measured approximately 63,782 sq. meters, whereas the seized page referred IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 12- only to "34000". According to the assessee, this itself demonstrated that the notings could not represent actual sale consideration for the entire land transactions. Detailed charts showing survey numbers, dates of sale, area sold, ownership percentages and sale consideration were furnished before the Assessing Officer. The assessee maintained that all sale transactions were duly reflected in books of account and taxes had been paid thereon.

18. The Assessing Officer, after considering the detailed reply of the assessee, rejected the explanation primarily on the ground that the seized document, when read in conjunction with the statement recorded under section 132(4) and the actual land transactions carried out by the assessee group, clearly established that the notings represented actual sale consideration and not merely future projections as claimed by the assessee. The Assessing Officer observed that the assessee himself had admitted during the course of search that the seized page was in his own handwriting and that the figures mentioned therein were in crores. According to the Assessing Officer, the assessee had also admitted in his statement that the notings related to land transactions undertaken in Godhavi region. The Assessing Officer therefore held that the assessee's subsequent attempt during assessment proceedings to portray the document as merely a family projection sheet prepared after Rakshabandhan was an afterthought lacking credibility. The Assessing Officer specifically noted that the seized page contained systematic numerical calculations directly relatable to actual land area sold by the assessee and corresponding value calculations at the rate of 25,000

per sq. meter, which could not be treated as casual future estimations. The Assessing Officer further observed that the figures appearing on the seized paper substantially matched the land area and transaction pattern IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 13- emerging from the independently verified sale deeds obtained from the AnyROR database, thereby lending strong corroboration to the inference that the document represented actual consideration received from land deals.

19. The Assessing Officer particularly relied upon the fact that the assessee, in response to Question No. 24 during statement under section 132(4), had acknowledged recent land dealings in Godhavi region and had explained the transactions survey-wise. According to the Assessing Officer, the assessee never denied the existence of such land transactions nor disputed that the figures related to Godhavi land dealings. The Assessing Officer held that once the assessee admitted ownership and authorship of the seized document and admitted that the figures were in crores and related to land dealings, the burden shifted upon the assessee to substantiate with cogent documentary evidence that the notings were merely projections. However, according to the Assessing Officer, no independent documentary material was furnished by the assessee to establish either the alleged family disputes or the alleged future investment planning theory. The Assessing Officer observed that the explanation that the page was prepared to pacify the assessee's mother and sister after Rakshabandhan was merely a self-serving narrative unsupported by contemporaneous evidence.

20. The Assessing Officer further rejected the assessee's argument that the seized page was prepared after completion of the sale transactions and therefore could not relate to actual sale consideration. According to the Assessing Officer, merely because the page was prepared after execution of sale deeds did not dilute its evidentiary value, particularly when the calculations on the seized page matched the actual land transactions IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 14- undertaken by the assessee group. The Assessing Officer held that in real estate transactions, it is a known fact that substantial portions of consideration are often received outside the books and therefore the seized notings represented actual cash components of the transactions. The Assessing Officer also rejected the contention that no incriminating material was found from the purchasers. It was observed that absence of corroborative evidence from buyers such as Jankhit C. Prajapati and Rajesh Brahmhatt could not nullify the evidentiary significance of the incriminating material found from the possession of the assessee himself. According to the Assessing Officer, the seized document recovered from the assessee constituted primary evidence and the same could not be disregarded merely because corresponding documents were not found from purchasers during search.

21. The Assessing Officer also found fault with the assessee's reliance on his statement under section 132(4). According to the Assessing Officer, although the assessee attempted to rely upon selective portions of his statement to contend that the notings represented projections of debts and investments, the overall tenor of the statement clearly established nexus with actual land transactions in Godhavi. The Assessing Officer observed that the assessee had admitted that the

seized pages related to his land dealings and that the figures were in crores, and therefore the explanation subsequently advanced during assessment proceedings was inconsistent with the surrounding facts and circumstances. The Assessing Officer held that the assessee's explanation was a "well-cooked and woven story" devised only after issuance of show-cause notice to avoid tax liability arising from incriminating seized material. It was therefore concluded that the assessee had failed to rebut the presumption arising from possession of the seized IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 15- document and failed to discharge the burden of proving that the notings did not represent actual unaccounted sale consideration.

22. The assessee carried the matter in appeal before the Commissioner of Income Tax (Appeals), Ahmedabad challenging the assessment order passed under section 143(3) r.w.s. 153A for A.Y. 2019-20 wherein addition of 3,55,69,687/- was made on account of alleged unaccounted sale consideration received from sale of Godhavi lands. The CIT(A) noted that similar additions were also made for A.Y. 2020-21 and since the issues, grounds and factual matrix involved in both years were substantially identical, the appeals were considered together.

23. Before the CIT(A), the assessee challenged the very validity of the assessment and contended that the addition had been made in absence of any incriminating material found during the course of search. The assessee argued that the entire addition was based merely upon presumptions drawn from a rough handwritten paper being Annexure A-6 Page-10 and not upon any direct evidence of receipt of on-money. The assessee specifically contended that the Assessing Officer erred in treating the alleged unaccounted sale proceeds as unexplained income under section 69A despite the fact that the transactions related to transfer of capital assets, the sale transactions were duly recorded in books and the capital gains arising therefrom had already been offered to tax in the return of income. It was further argued that even assuming, without admitting, that any differential consideration existed, the same could at best be brought to tax under the head "capital gains" and not as unexplained money under section 69A read with section 115BBE.

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24. The assessee reiterated before the CIT(A) the factual explanation furnished during assessment proceedings regarding the seized page. It was submitted that the notings appearing on Annexure A-6 Page-10 represented merely projections relating to future investments, liabilities and family settlement planning and had no nexus whatsoever with actual sale consideration received from Godhavi land transactions. The assessee explained that after sale of ancestral lands situated at Godhavi and nearby villages, serious disputes arose within the family, particularly involving his mother and sister, who objected to sale of family properties acquired by late Shri Somabhai Patel. It was contended that on Rakshabandhan dated 03.08.2020, family discussions took place wherein the assessee assured his mother and sister that equivalent lands would be reacquired in future. According to the assessee, the notation "34000" represented approximately 34,579 sq. yards being

the share of his mother and sister in the lands already sold and the figure "25000" represented merely an estimated future market rate of land after five years. Accordingly, the figure "85 crore" was only a future projected investment amount required to reacquire equivalent lands for family members.

25. The assessee also furnished before the CIT(A) detailed charts showing ownership pattern, survey numbers, dates of sale, sale consideration and area sold in respect of Godhavi lands. It was specifically emphasized that the seized page referred only to approximately 34,000 sq. yards whereas the actual lands sold by the assessee group aggregated substantially larger area. According to the assessee, this itself disproved the Assessing Officer's assumption that the seized page represented actual sale consideration for all transactions. The assessee further pointed out that the figures "40" and "30"

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- 17- mentioned on the seized page represented existing family assets and future proposed investments in villages such as Palodia, Khatraj and Sanavad and had no relation with alleged on-money receipts.

26. The CIT(A) recorded the submissions advanced by the assessee with respect to the statement recorded under section 132(4) of the Act. The CIT(Appeals) noted that on perusal of the seized Annexure A-6, the figures "85", "40" and "30" did not by themselves establish receipt of actual consideration from land transactions. The CIT(A) observed that there was no mention in the seized document regarding survey numbers, names of purchasers, dates of sale transactions, document numbers or any indication that the figures represented actual cash receipts from completed sale transactions. It was further observed that the Assessing Officer had merely estimated the value of lands by applying an assumed rate of 25,000 per sq. yard/meter to land area sold and thereafter attempted to correlate the same with the rough figures appearing on the seized paper. According to the CIT(A), such estimated calculations themselves did not exactly match with the figures of 85, 40 and 30 appearing on the seized page, thereby weakening the Assessing Officer's inference that the notings represented actual sale consideration.

27. The CIT(A) also noted that the seized document was merely a "loose sheet" containing rough projections and did not conclusively establish that any actual transaction of unaccounted cash had taken place. The CIT(Appeals) observed that nothing contained in the seized page conclusively proved that the figures represented actual receipt of on-money from land sales. The CIT(A) accepted the contention of the assessee that the IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 18- notings were in the nature of projections and estimates relating to future investments and liabilities. The CIT(Appeals) also took note of the detailed explanation furnished by the assessee regarding family disputes and future land acquisition planning for his mother and sister.

28. The CIT(A) thereafter dealt with the legal issue regarding absence of incriminating material. The CIT(Appeals) placed reliance upon judicial precedents including decisions of the Hon'ble Delhi Tribunal, Hon'ble Gujarat High Court and other courts laying down that additions under section 153A must necessarily be based upon incriminating material found during the course of search. The assessee relied upon the decision in the case of Sanjay Aggarwal v. DCIT and other judgments to contend that where no incriminating material is found during search, no addition can be sustained merely on the basis of post-search assumptions or inferences. The CIT(A) also referred to judicial precedents explaining the scope of section 69A and emphasizing that ownership and possession of unexplained money must first be established before invoking section 69A.

29. The CIT(A) further noted that admittedly no cash, bullion, unexplained investment, diaries, parallel accounts or corroborative evidence representing alleged on-money receipts were found either from the assessee or from purchasers of the lands. The CIT(Appeals) noted that the assessee was never found in possession of any alleged cash generated from sale of Godhavi lands and no evidence of deployment or utilization of such alleged cash was brought on record by the Assessing Officer. The CIT(Appeals) therefore found substance in the contention that the addition had been made merely on suspicion and presumptions without supporting incriminating material.

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30. The CIT(A), after analyzing the seized material, statement recorded under section 132(4), explanation furnished by the assessee and the judicial precedents relied upon, ultimately concluded that the Assessing Officer had proceeded largely on assumptions, presumptions and estimated correlations without bringing on record cogent incriminating evidence establishing receipt of unaccounted cash consideration from Godhavi land transactions.

31. While adjudicating the appeal, the CIT(A) undertook a detailed examination of the role of the purchasers involved in the Godhavi land transactions, particularly Smt. Sonal Rajeshbhai Khandwala and Shri Jankit C. Prajapati, and treated the findings arising in their respective cases as having substantial bearing upon the sustainability of the addition made in the hands of the assessee. The CIT (Appeals) observed that the entire case of the Assessing Officer was premised on the allegation that the purchasers of the Godhavi lands had paid huge amounts of on-money in cash over and above the consideration disclosed in the registered sale deeds and that such alleged cash component represented undisclosed income in the hands of the assessee. According to the CIT(A), once the Department itself alleged existence of a bilateral cash transaction, the evidentiary position emerging from the cases of the purchasers assumed critical importance for determining whether any such on-money transaction had actually taken place.

32. In this context, the CIT(A) specifically noted that substantial portions of the Godhavi lands were sold to entities and persons connected with Shri Jankit C. Prajapati as well as to purchasers including Smt. Sonal Rajeshbhai Khandwala. The Assessing Officer himself had relied upon these very sale transactions while drawing correlation between the seized notings appearing IT(SS)A Nos.

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- 20- on Annexure A-6 and the actual land transactions undertaken by the assessee group. However, the CIT (Appeals) observed that search proceedings had also been conducted in the cases of these purchasers and connected persons, yet no incriminating material evidencing payment of on-money was discovered from their premises. According to the CIT(A), this factual aspect materially diluted the foundation of the Assessing Officer's case.

33. The CIT(A) particularly referred to the case of Shri Jankit C. Prajapati, who was one of the major purchasers connected with Survey Nos. 952, 953, 907 and 908 situated at Godhavi village. The CIT (Appeals) observed that despite a search being conducted in the case of Shri Jankit C. Prajapati on the very same date as the search conducted upon the assessee, no document, diary, loose paper, digital record, cash trail or parallel accounting evidence was found showing payment of any cash component for purchase of the Godhavi lands. The CIT(A) considered this aspect highly significant because if, as alleged by the Assessing Officer, lands had actually been purchased at a rate of 25,000 per sq. meter involving huge on-money payments, some corroborative evidence would ordinarily have surfaced from the purchaser's side. The absence of such evidence in the case of Shri Jankit C. Prajapati therefore weighed heavily with the CIT(A) while evaluating the correctness of the Assessing Officer's conclusions.

34. Similarly, the CIT(A) also considered the evidentiary position relating to purchasers such as Smt. Sonal Rajeshbhai Khandwala and the Brahmbhatt group, who were purchasers in respect of Survey Nos. 958, 957 and 944. The CIT (Appeals) noted that despite the department carrying out search and investigation proceedings concerning these purchasers, no material IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 21- whatsoever was found indicating payment of unaccounted cash consideration to the assessee. The CIT(A) emphasized that none of the purchasers, including Sonal Khandwala or the connected purchasers, admitted during their statements recorded under section 132(4) that any amount over and above the documented consideration had been paid in cash. According to the CIT (Appeals), this absence of admission or corroborative material from the alleged payer side substantially weakened the Assessing Officer's allegation that the assessee had received massive unaccounted sale consideration outside the books.

35. The CIT(A) thereafter analyzed the direct impact of these findings upon the assessee's factual position. It was observed that the Assessing Officer had proceeded solely on the basis of rough numerical notings appearing on Annexure A-6 and had attempted to mathematically correlate those figures with the area of lands sold to parties such as Shri Jankit C. Prajapati and Sonal Khandwala. However, according to the CIT(A), the alleged payer side itself did not support the department's theory of on-money transactions. The CIT (Appeals) held that where the very purchasers alleged to have paid huge unaccounted cash neither admitted such payment nor were found with incriminating evidence reflecting such transactions, the inference that the assessee had received corresponding cash consideration became highly doubtful and unsupported by independent evidence.

36. The CIT(A) therefore accepted the assessee's contention that the addition had been made merely on presumptions and estimated inferences without any corroborative evidence establishing actual movement of cash between the assessee and the purchasers. The CIT (Appeals) treated the IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 22- absence of incriminating evidence in the cases of Shri Jankit C. Prajapati, Sonal Khandwala and other purchasers as a decisive factor demonstrating that the department's theory was based only upon suspicion arising from rough projections written on a loose sheet and not upon conclusive evidence of actual on-money transactions. Consequently, the findings arising in the purchasers' cases were treated by the CIT(A) as materially supporting the assessee's explanation that the seized notings represented merely projections relating to future investments and liabilities and not actual undisclosed sale consideration received from Godhavi land transactions.

37. While passing the order, CIT(Appeals) made the following observations:

"4. In this case, before moving to the technical/legal ground, it is convenient to adjudicate the ground of appeal related to merit of the case in the following paras.

5. The ground of appeal no. 3 and 7 relate to the addition made by the AO on account of unexplained investment in the form of land at Godhavi under Section 69 of the act for an amount of Rs.3,55,69,687/-.

5.1 It is observed that similar addition for the same land with respect to unexplained investment in land at Godhavi for Rs. 17,28,11,249/- was made in the hands of Smt. Sonal Rajesh Khandwala. On careful consideration of relevant facts on record, it is observed that entire addition in the case of appellant is made based upon a loose paper found during the course of search at Shri Alap Patel which pertains to alleged Godhavi transactions. The identical issue has been considered by undersigned while adjudicating appeal of Smt. Sonal Khandwala for A.Y.2019-20 and 2020-21 vide order dated 12/08/2024 wherein it is held as under:-

5. The grounds of appeal no. 3 to 5 are interlinked, hence dealt together, relate to unexplained investment in land at Godhavi for Rs.

17,28,11,249/-.

5.1 The brief facts of the case are that during the course of search at Shri Alap Patel, loose sheet being page No. 10 of Annexure-A/6 (reproduced in preceding paras) was found. The statement of Shri Alap Patel as recorded during his search was referred by the AO wherein, he has admitted that this page is in his own handwriting and figures written are in Crores. The AO has also stated that in statement recorded u/s 132(4) of the Act, Shri Alap Patel IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 23- has stated that loose page is projection of his debts/investments. Based upon this statement, the AO has observed that left hand side of page contains a list of Shri Alap Patel's debts (to be repaid) and investments i.e. money out-flow hence it is reasonable to assume that the right side of the page must contain money Inflow to him. The AO has further referred to the statement of Shri Alap Patel wherein he has provided details of land transactions at Godhavi. Based upon this statement, a search was conducted in AnyROR data base for all land sale deeds involving Shri Alap Patel and his family members during relevant period which is reproduced on page No. 8 to 11 of assessment order Based upon such databass, the AO has prepared following tabular chart Total Area Survey Area Sold Document Date of Document Price @ Buyer Number (Sq. (Sq. Price Document No. 25000/sqmts.

	Mts.)	Mts.)					
944	11,331	11,331		2,83,27,500	17.10.2019	11374	28,32,75,0
958	12,647	12,647		3,16,17,502	02.11.2018	12734	31,61,75,0
957	8,397	8,397	Developer	2,09,92,503	27.05.2019	4913	20,99,25,0
959	14,973	2,714	Group	67,86,000	03.11.2018	12,760	6,78,50,0
Sub							
	47,348	35,089		8,77,22,505			87,72,2500
Total							

5.1.1 The AO has observed that land at Godhavi was transacted @ Rs.25,000/-per square meter hence she arrived at actual consideration at Rs 87,75,25,000/- as tabularized herein above. The AO has further observed that aggregate consideration of Godhavi Land is Rs 87,75,25,000/- whereas document value of land is Rs.8,77,22,505/- which means that unaccounted transaction in land deal is amounting to Rs.78,98,02,495/- While coming to this conclusion, the AO has stated that seized material speaks the authenticity of document as well as transaction of land. These evidences are self-speaking and have been executed in accordance with seized documents. The AO further observed that 50% part in Godhavi land Survey No. 958 and 959 relates to the appellant which means that actual consideration is Rs 19,20,12,500/- (50% of 38,40.25,000/-) whereas document value of deal was Rs. 1,92,01,251/- hence differential amount of Rs 17,28,11,249/- represents unaccounted investment by the appellant and accordingly addition was made u/s 69 of the Act.

5.2 While passing the assessment order of Shri Alap Patel for year under consideration (the appeal against such order is also pending before undersigned), his AO has also referred to relevant loose paper which contains noting of 85, 40 and 30 (crores) which is actual consideration received by assessee for three sets of deals. For the first deal of Godhavi, 34,000 x 25,000 = 85 is mentioned which means that deal value is for 85 crores and land rate is Rs.25,000/- per sq mtr The AO has observed that actual area sold is 35,089 in first tranche hence actual value of land is Rs. 87,72,25,000/-. Applying such market rate on area of land, the AO has worked out consideration at Rs.37.17 crores (14871 x 25000) and Rs.26.73 crores (10694 x 25000). Thus, AO has worked out actual deal value at Rs.151.63 crores (87.72 + 37.17 + 26.73) IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 24- which nearly matches with amount mentioned in seized material at Rs. 155 crores (85+40+30).

5.3 During the course of appellate proceedings, the appellant has referred to various explanations filed before the AO wherein she had explained that no cash transaction was involved in such land deal. The appellant has contended that notings in the page do not pertain to her more particularly when information contained therein does not relate to her, land survey number, date of purchase, amount of purchase, etc., are not mentioned. The appellant has also stated that Shri Alap Patel in his statement recorded u/s.132(4) of the Act has categorically admitted that such loosed paper is mere projection and no cash trail was found during the course of search which establishes involvement of any on-money. The appellant has further stated that the AO has presumed that land at Godhavi was transacted @ Rs.25,000/- per sq. meter but no corroborative evidences were brought on record to suggest that deal value was at such amount. The appellant has further submitted that the AO has made entire addition based upon dumb document having no cash trail and without giving any cross examination of Shri Alap Patel. In support of her argument, the appellant has placed on various decisions which are already reproduced in written submission.

5.4 On perusal of relevant facts on record, it is observed that the AO has made addition of unexplained investment in Godhavi land based upon loose paper page No. 10 of Annexure- A-6 seized from Shri Alap Patel. It is observed that statement of Shri Alap Patel was recorded during the course of search u/s. 132 of the Act (which is reproduced herein above) wherein he has stated that "this page is in my own handwriting the page contains projection of my debts/investments, etc.". Though while explaining the contents of the loose paper, Shri Alep Patel has admitted that loose paper is in his handwriting, the figures mentioned therein are in Crores, he has simultaneously stated that contents/notings in such seized material pertains to his debts/investments and are mere projections. Shri Alap Patel in his statement has nowhere admitted that he or Appellant has transacted Godhavi land at value over and above documented value. It is observed that relevant question and other questions in such statement are completely silent with reference to name of the appellant or admission of on-money receipt from the appellant. The statement recorded u/s.132(4) has evidentiary value as same is recorded during the course of search and same is the first statement wherein explanation of any loose paper is provided by assessee spontaneously. It is settled legal law that statement recorded during the course of search has to be read as a whole and it cannot be interpreted as per convenience of the AO. It is relevant to refer to decision of Hon'ble Gujarat High Court in the case of Glass Lines Equipments Co. Ltd. v Commissioner of Income-tax [2001] 119 TAXMAN 813 wherein it was held that material is to be read as whole and not in parts. The relevant extracts of the order is provided herein below:

"....."

9. In view of the settled legal position, it was not open to either Commissioner (Appeals) or the Tribunal to ignore a part of the IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 25- contents of the affidavit. We are conscious of the fact that the findings recorded by the Commissioner (Appeals) and the Tribunal are concurrent as regards the facts and evidence on record and but for the averments made in the affidavit which have been ignored, we would not have interfered with the said findings. It is well-settled

cannon of interpretation that a document has to be read as a whole:

it is not permissible to accept a part and ignore the rest of the document. Mehta Parikh & co. vs. CIT (1956) 30 ITR 181 (SC) relied on"

5.5 The Hon'ble Delhi High Court in the case of CIT v. D.D. GEARS LTD. ITA No.896/2008 vide order dated 03-08-2012 has held as under

"17. A perusal of the order of the Tribunal shows that it has followed a common sense approach that the seized material should be followed in its entirety and both the receipts and the payments are to be taken into consideration. The revenue is no doubt correct in contending that the payments are allowable as deduction only if they represent expenses allowable as business expenditure. However, the Tribunal has found that the expenses represent turning charges, overtime payments, payments to temporary workers, remuneration to excise consultants, incentives etc. The finding of the Tribunal that these are expenses incurred by the assessee for the purpose of the business in a finding of fact based on the seized material itself. The Tribunal's approach to consider the seized material in its entirety is a correct approach, for it would be unjust and contrary to the principles of income tax law to take note of only the income part reflected in the seized material, excluding the expenditure part reflected in the same seized material, provided the expenditure part is allowable as business expenditure. In our view the findings of the Tribunal, both of facts and law, do not suffer from any perversity. We may add that no documents or material was produced before us on behalf of the revenue, despite several opportunities, to show any perversity in the decision of the Tribunal. We therefore, do not think any substantial question of law arises out of the aforesaid decision of the Tribunal It is observed that statement of Shri Alap Patel is very categorical and he has never admitted on-money receipt for sale of Godhavi land to the appellant. In view of this specific fact, contention of the appellant that no cross examination was provided during assessment proceedings cannot be accepted as it is purely academic in nature. Had the statement of Shri Alap Patel contain any admission of on-money receipts, issue of cross examination would have been relevant.

5.6 While making impugned addition, the AO has relied upon seized material found during the course of search at Shri Alap Patel. The seized material merely contains noting "Godhavi" and also contains notings like, "85, 40, 30 and aggregate 155" which according to the AO is Rs. 155 Crores IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 26- being the deal value of Godhavi Land. The entire seized material nowhere contains the word "cash". Further, such seized material does not contain name of Appellant or name of other buyers who have purchased land at Godhavi at relevant period. Even no signature of any party is found in such seized material. This seized material nowhere contains date or land survey number which are transacted between

the appellant and Shri Alap Patel. The land survey number of other lands transacted at Godhavi by Shri Alap Patel is also not mentioned in entire seized material which itself suggests that there is no clinching or corroborative evidence to suggest on-money involvement in land transaction at Godhavi which are sold by Shri Alap Patel and purchased by Appellant including other owners.

5.7 It is relevant to refer to following facts from assessment order of Shri Alap Patel to adjudicate the issue of involvement of on-money or not.

(i) The AD of Shri Alap Patel himself has stated that first land deal was for 35089 sq mtrs, whereas seized material states 34,000 which is considered by the AO as 34000 sq. mtrs of land in first tranche of deal.

The loose paper nowhere states that 34000 stands for 34000 sq. mtrs of land and 25000 means rates of land per sq. mtrs or vice versa, There is a variation in first tranche of land as per land sold by Shri Alap Patel and notings mentioned in seized material.

(ii) The AO of Shri Alap Patel has mentioned that second tranche of land was transacted with Jankhit C. Prajapati and others for 14871 sq. mtrs and value of land works out to Rs.37.18 crores considering land rate @ Rs.25,000/- per sq. mtrs. However, seized material found during the course of search does not contain area of land or survey number. The figures of actual transaction value of such traiche is Rs.37.18 crores whereas loose material on which AO is relying contains notings of Rs.40 crores hence there is no direct correlation between these two figures as worked out and interpreted by the AO in assessment order.

(iii) The AO of Shri Alap Patel has mentioned that third tranche of land was transacted with Jankhit C. Prajapati and others for 10694 sq. mtrs and value of land works out to Rs.26.74 crores considering land rate @ Rs.25,000/- per sq. mtrs. However, seized material found during the course of search does not contain area of land or survey number. The figures of actual transaction value of such tranche is Rs.26.74 Crores whereas loose material on which AO is relying contains notings of Rs.30 Crores hence. there is no direct correlation between these two figures as worked out and Interpreted by AO in assessment order.

5.8 It is observed that above referred loose paper nowhere contain date- wise payment/receipt of on-money by either party. While passing the assessment order, the AO has not referred to any loose material found during the course of search at Shri Alap Patel which proves actual cash trail of Rs.

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- 27- 155 crores. It is relevant to mention that a search u/s. 132 of the Act was also carried out in case of Shri Jankhit Prajapati (one of the purchasers of Godhavi land) on 08-12-2020 and even in his order, the AO has not referred to any cash trail which can prove that he has made any on-money payment to Shn Alap Patel for Godhavi land. It is further observed that search u/s.132 of the Act was also earned out in B-Safal Group including Shri Rajesh Brahmhatt & Rupesh Brahmhatt on

28.09.2021 (one of the purchasers of Godhavi land) and no evidences were brought on record to prove that even such purchaser has made on-money payment to Shri Alap Patel. These relevant facts clearly prove that the AO has not brought any evidence to support his contention that land at Godhavi transacted by Appellant involves on-money as alleged by her. It is observed that while passing the assessment order no statement of Appellant or other co-owners/purchaser were referred by the AO, if any recorded by Investigation Wing, to support the contention that land at Godhavi involves on-money payment/receipt by buyer/sellers. This fact also proves that Authorised Officer has also not made any further inquiry post-recording of statement u/s.132(4) of the Act in case of Shri Alap Patel. It is observed that the AO has not recorded any statement u/s. 131 of the Act in case of buyer or purchaser of land from which she can prove that there is involvement of on- money for land purchased by the appellant. It is observed that the AO has simply relied upon loose paper found from Shri Alap Patel and concluded that land at Godhavi was purchased by the appellant at Rs.25,000/-per sq. mtrs. But there is no independent or corroborative evidence to suggest that noting of 25000/- is rate of land or prevailing fair market value of land at Godhavi was Rs.25,000/- per sq. mtrs. It is relevant to refer to decision of the Hon'ble Madras High Court in case of CIT Vs. P.V. Kalyanasundaram [2006] 155 454 wherein it is held as under:

"Section 1588 of the Income-tax Act, 1961 Block assessment in search cases Undisclosed Income Block period 1-4-1988 to 8-12-1998- Whether where Assessing Officer did not conduct any independent enquiry relating to value of property purchased by assessee and merely relying upon statement of seller that he had received higher amount as sale consideration as against disclosed in registered sale deed made addition of difference in assessee's income, Tribunal was justified in deleting addition holding that Assessing Officer had failed to discharge its duty of proving actual consideration in such transaction -Held, yes Hon'ble High Court further observed in para 6 as under:

6. We also found that the Assessing Officer did not conduct any independent enquiry relating to the value of the property purchased.

He merely relied on the statement given by the seller.

If he would have taken independent enquiry by referring the matter with the Valuation Officer, the controversy could have been avoided Falling to refer the matter was a fatal one..."

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- 28- 5.9 In addition to above, it is observed that while interpreting above referred loose paper, the AO of the appellant has observed as under:-

"From the above statement, it is established that calculations on the sheet are in Alap Patel's own handwriting and the figures written are in crores. The left hand side of the sheet contains a list of Alap Patel's debts (to be repaid) and investments Le, the 'money outflow as admitted. It is, therefore, reasonable to assume that against this,

the right- hand side of the sheet must contain the 'money inflow' to him. The contents on the right-hand side are actually calculations pertaining to the recent land deals done by him in Godhavi region of Ahmedabad district. In his statement he has given details of his recent land deals in Godhavi region as follows:"

It can be seen from above finding that there is involvement of presumption and such presumption is without any supporting evidences. The AO has observed that left side of above referred loose paper are list of Alap Patel's debt (to be repaid). This left side contains various notings like Manishbhai, Prashant, Happy, Palodiya, Nimeshbhai, etc., but has failed to establish such notings with actual transaction/debt of Shri Alap Patel. The AO has not brought any clinching evidence for notings on left side but accepted the contention of Shri Alap Patel regarding projection of his debt hence on very same logic, there is no evidence to suggest that right side of paper containing "Godhavi" stands for on-money receipt on sale of land more particularly, such loose paper no where contain signature of any party, land survey number, date of purchase/sale, date wise payment etc These facts also support the contention of Appellant that loose paper relied upon by the AO nowhere suggests actual receipt/payment for Godhavi land by Appellant.

5.10 It is relevant to refer to decision of the Hon'ble Ahmedabad ITAT in the case of Dr. Keyur Parikh & Others V/s ACIT No. IT (SS) A No. 604, 610, 601, 674, 603, 639, 612, 602, 640, 634, 652, 611/Ahd/2011 dated 18/10/2013 wherein it is held as:

"Unaccounted investment for the purchase of land-laxability in the hands of individual assessee or company-held that: the registered sale deed dated 17.10.2007 was not executed between two Individuals but it was purchased on behalf of a company, namely, CCCPL, on one hand, from other corporate entities, seven in number, on the other hand. Therefore, the transaction carried out was a well publicized transaction Rather facts of the case have further revealed that earlier the land in question belonged to certain co operative IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 29- societies Such a sale deed thus cannot be treated as a close- door-deal"

Suspicion howsoever strong cannot take the place of evidence - those were not even the Incriminating material but simply computer-generated projection sheets, therefore, hard to say, synonymous to clinching material evidence depicting cash transaction, hence erroneously suspected by the Revenue Department. We hereby hold that there was no evidence in possession of the Revenue Department to hold that the assessee had in fact made an unaccounted investment towards the purchase of the property. Decided against the revenue.

5.11 It is relevant to refer to decision of the Hon'ble Delhi High Court in case of CIT vs Vatika Landbase (P.) Ltd. [2016] 67 taxmann.com 372 "Section 69, read with section 1588B, of the Income-tax Act, 1961-Unexplained investments (Immovable property) - Block period 1-4-1997 to 8-5-2003 Assessee-company was engaged in business of real estate development-During search and seizure operation, revenue seized various materials including documents stored in computer of an

employee of assessee- company - Assessing Officer found from seized documents that rate of sale of floor space in commercial complex was higher than rate declared by assessee in its sale deed. He thus made certain addition to assessee's taxable income. It was noted that construction of commercial complex was still in progress and, thus, rate of floor space mentioned in seized documents was a mere projection which did not represent any completed or materialized transaction - Moreover, Assessing Officer did not make any enquiry from said employee or from buyers of flats in respect of actual price paid by them. Whether in aforesaid circumstances, impugned addition made merely on basis of an unsigned and undated seized document was not sustainable. Held, yes [Paras 40, 43 and 46] [In favour of assessee]. 5.12 It is relevant to refer to decision of the Hon'ble Ahmedabad ITAT in the case of Priya Blue Industries Private Limited vide IT[SS]A 4, 29/Ahd/2023 dated 28/06/2024 wherein it is held as under:

".....17.5. Next one is excel sheet found from the backup of the computer namely "ACCOUNT SETTLED AS ON 12-7- 2018 UP TO OPPORTUNITY. This excel sheet represents only a rough working and the sheet was prepared for an estimated basis and none of the parties has executed any transactions.

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- 30- No such amount has been received either by Sanjay P Mehta or the assessee company, since the sheet represents rough working of estimated amounts to be received by Sanjay P Mehta or the assessee company, if the Joint Venture was to be executed, which due to the regulations of Maritime Board was not possible. Such sheet represents no connection with any real income which were to be earned by the assessee company or Sanjay P Mehta. Therefore addition on such ground would only be based on assumption and presumptions. Further the seized excel sheet nowhere contains either of the following details: what activities have been carried out * who has carried out such activities, * what is the precise period of carrying out such activities, methodology of deriving amount payable;

* full form of 'RK' and 'SPM' * Details of actual payment (namely recipient, date, mode of payment etc.) * the sheet does not contain signature of any of the parties * the sheet nowhere mentions that such profit has been earned from joint venture * none of the parties has actually executed such transactions as per joint venture agreement * none of the parties has even stated to have executed such transactions as per joint venture agreement * even as per the sheet amount is payable not actually paid * there is no corroborative evidence of actual distribution of profit or receipt * there's no admission of unaccounted income by either of the parties * the sheet has no connection with the mal income earned by BPIL or Sanjay P Mehta and no such amount has been received by either parties * even the amount of profit appears to be a theoretical number such a number does not show any financial record.

* if profit or loss is to be worked out strictly on the basis of the sheet in question it results in a loss of Rs.2, 10,04,231/ 17.6. In view of the above, Ld. Senior Counsel

submitted that it is clear that the excel sheet in question appears to be only a rough working, merely reflects some projections, appears to have been prepared on estimate basis. Merely because of the word 50% RK and 50% SPM as mentioned in the sheet cannot represent that such IT/03JA 4, 29/Ahd/2023 & 4 ors Priya Blue Ind P Ltd & Hoogly Ship Breakers Ltd Page 27 sheet reflects quantum of profit actually earned. Therefore the Id Senior Counsel submitted it's clearly evident that the sheet is merely a dumb document. The sheet is dressed up with theoretical numbers, the amount so-called profit cannot be derived from the sheet without corresponding evidence. Therefore the impugned addition made on dumb document IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 31- and not backed with any corroborative evidence is unsustainable law and rolled on the following decisions:

ACIT-Vs-Dharmendrasinh Waghele Tax Appeal 1539 of 2011 (Gul ACIT-Va. Manav Infrastructure P Ltd IMSSJA 314/Ahd/2012 and ACIT -Vs-Bhagvanbhal K Ajara ITISSJA 194/Ahd/2013 It is well settled that NO addition can be made merely on the basis of contents of seized materials Reliance is placed on the following decisions:

CIT-Vs-Maulik Kumar K Shah 307 ITR 137 [Gull Common Cause -Va Uol-394 ITR 220 (SC) ITO-Vs-Bharat A Motha-60 faxmann.com 1 [Gull 17.7. Thus Ld Senior Counsel pleaded that neither the addition by the Ld AO of Rs. 11,29,61,022/ nor the estimation made by the Ld CIT(A) of Rs. 4.10 crores are not sustainable in law.

.....

19. We have heard rival submissions in detail and perused the materials on record

19.5. At this juncture we would further like to refer the provisions of Section 132(4A) of the Act which reads as follows-

"132(4A) Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search, it may be presumed-

(i) that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;

(ii) that the contents of such books of account and other documents are true; and

(iii) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of,

any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested."

19.6. From going through the above provision, we find that it uses the word "it may be presumed", which as rightly held IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 32- by the Hon'ble jurisdictional High Court in the case of CIT vs. Dharmendra Sinh Waghela that the word "may presume that such presumption is rebuttable in a situation if Revenue could not bring on record any material to prove that the seized material is corroborative for the addition. In the present case before us, the Ld. AO could not correlate the seized materials with corroborative evidence and also not made sufficient enquiry so as to establish that in fact the said documents unearthed are concealed business activity of the assessee. In the absence of any such evidence, the addition so made by the AO remained un-corroborated and liable to be deleted. This view of ours is supported by Jurisdictional High Court in the case Dharmendra Sinh Waghela which was followed by the Co-ordinate Benches of the Tribunal in the case of Manav Infrastructure P Ltd and ACIT -Vs- Bhagvanbhai K Ajara [cited supra] in IT(SS)A No. 194/Ahd/2013 as follows:

"... 11. We have heard the rival contentions and perused the record placed before us. The issue raised by both the parties relates to a Memorandum of Understanding (MoU) which was pertaining to a purchase of land of 15,500 sq. yards at Kalol @ Rs. 4,500/- per sq. yard. This alleged document was seized in the course of search conducted in the case of Umiya Group on 04.03.2010. This document, in which matter was typed in the form of Memorandum of Understanding (MoU) between assessee-firm through its partner Dipak Prajapati and the land owner for the purchase of land bearing Survey No. 1001/18 and 1000 at Kalol admeasuring 15,500 sq yards agreeing to purchase at Rs. 4,500/- per sq. yard. Ld. Assessing Officer, during the course of assessment proceedings, observed that there is a purchase of alleged land admeasuring 15,500 sq yards at the cost of Rs. 1,70,00,000/- in the regular books of accounts. Ld. Assessing Officer was convinced that the alleged purchase of land was actually purchased at Rs. 6,97,50,000/- which he calculated by applying the rate of Rs.4,500/- per sq. yard as appearing in the seized MOU. He accordingly made an addition of Rs. 5,27,50,000/- and completed the assessment.

12. When the issue came up before the Id. CIT(A), he took a view that, in general parlance, in the business of real estate, there is an element of on-money which is normally to be carried out in cash. Ld. CIT(A) adopted a ratio of 40:60, wherein 40% of the deal amount is normally paid by cheque and remaining 60% being the on-money is paid by cash. Ld. CIT(A) accordingly taking the base of cost price appearing in assessee's books of accounts at Rs. 1,70,00,000/- calculated the total consideration value at Rs. 4,25,00,000/-and IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 33- thereafter calculated the 60% on-money value at Rs. 2,55,00,000/- and sustained the addition to this extent.

13. During the course of proceedings before us, Id. Counsel has mainly contended that the alleged document, 1.o., MOU and kaccha chitthi, are unsigned, undated and mere draft and is a dumb document which Id. Assessing Authority should not have taken. We notice that the alleged document MOU is filed at page No. 15-21 of the paper-book and kacchu chitthi at Page Nos 22-23 and observe that the Memorandum of Understanding is prepared on a stamp paper dated 31.10.2007 between Uma Shakti Corporation Kalol Project, being the purchaser and the selling parties and this MOU is undated and only the stamp is of November 2007. There appears no signature of either of the parties on any of the pages. Even kaccha chitthi is also unsigned which speaks about a rough draft showing a partnership firm to be incorporated and there are other notings about installments and an amount of Rs.51,00,000/- is written on the last page of the kaccha chitthi. Ld. Assessing Officer has made the impugned addition on the basis of these documents. Now, the question arises before us is whether this unsigned, undated MOU and kachha chitthi can be taken as corroborative evidence against the assessee in order to make an addition.

14. Before analyzing the facts, we find it necessary to go through the decision of the Co-ordinate Bench in the case of ACIT vs. Manav Infrastructure P. Ltd. (supra), wherein Co- ordinate Bench has dealt with similar issue relating to addition made by the Assessing Officer on the basis of seized documents and whether an addition can be sustained if the alleged seized papers are rough work and there is no clear indication as to how they will lead as a basis for the alleged addition. The Co-ordinate Bench in the case of Manav Infrastructure P. Ltd (supra) has observed as follows:-

"7. We have duly considered rival contentions and gone through the record carefully, Section 132(4A) contemplates that where any books of accounts, other documents, money, bullion, jewellery or other valuable article or thing is found in the possession or control of any person in course of a search, it can be assumed that such books of accounts other documents etc. belongs to such person, contents in the books of accounts or documents are true. No doubt such an evidence is an admissible evidence, but not a conclusive one.

Presumption of belonging and its genuineness are rebuttable one. Hon'ble High Court in the case of Dharmendrasingh R. Waghele (supra) has also propounded that though section IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 34- 132(4A) of the Act uses expression "may presume", meaning thereby that such presumption is rebuttable one. In the present appeal, we have been called upon to construe and interprets these pages and arrive at a conclusion whether any transaction having nexus with the business transaction of the assessee can be

inferred. The assessee has placed on record details in tabular form exhibiting total shops available in Balaji Mall and how these shops have been sold in F.Y.2007- 08, 2008-09 and 2009-10. The assessee has also compiled these details floor- wise i.e. availability of shops on ground floor, second floor, third floor and fourth floor. It has placed on record date of sales, area and the amount for which these shops have been sold. Thus, complete picture of the shops, their area, their geographical location, date of sale and the amount for which they have been sold, have been placed by the assessee on page no.43 to 49 of the paper book. During the course of hearing, we have confronted the Id.CIT-DR to demonstrate nexus between narrations available on page no.7 to 10 of the paper book le seized material vis-à-vis alleged book results by the assessee. However, the Id. CIT-DR could point out that on page no 7 i.e. 2nd page of the seized paper, name of Ashiah J. Shah was mentioned contemplates business of Balaji Mall On an analytical examination of these details, we find that some narrations here and there, are having a slight connection with the shops, but it is difficult to arrive at logical conclusion The stand of the assensee before the AO was that these papers can be divided in three parts viz. (a) typed documents, hand written documents in Gujarati pertaining to Shree Balaji Mall and other hand written documents willlen in English with certain numbers mentioned in it. According to the assessee these hand-written documents in English is neither of Balaji Mall not of the company. These papers have neither been drawn by the directors or thir family members. This aspect was not only sixplained during the course of assessment proceedings, but even during the course of search itself. Against this stand of the assessee, the department did not take any step to investigate the issue further. The AO has also not tried to supplement his reasoning by inductive method is he has not made reference to any other connected material exhibiting nexus between these papers with that of the assessee's transaction. He simply observed that explanation of the assessee is not acceptable. The assessee has made a disclosure of Rs.3 crores in reply to question no. 10 recorded under section 132(4) of the Act. Out of this Rs. 30 Crores. Rs. 2 crores has been offered for taxation in this year. We have been informed that rest of Rs. 1 crore were offered in individual hands. We have tried our best to persuade both the id representatives to show some nexus or reasonable conclusion from all the figures IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 35- mentioned in these papers. By any scientific means they did not goad adjudicating authority to arrive at a conclusion that unaccounted profits have noticed in these papers The Id GIT(A) has appreciated these papers and arrived at a conclusion that these are rough work without any clear indication as to what the said numbers really lead to or relates to. On an analysis of complete material including statement of director recorded under section 132(4) and the explanation of the assessee extracted (supra) during the course of assessment proceedings, we are of the view that the Id. CIT(A) has appreciated the facts in right perspective way, and department is unable to goad us to arrive at any other logical conclusion. Therefore, we do not find any merit in this appeal of the Revenue. It is dismissed.

15. We further observe that Hon'ble jurisdictional High Court in the case of Dharmendrasinh R Waghela Prop. M/S. Narendra Roadlines (supra) has also observed as under:-

"2. The issue arises in following factual background. During the course of search operations carried out at the residential and business premises of the respondent assessee, certain documents were seized. On the basis of such documents, the Assessing Officer desired to make addition. The assessee, however, during the course of the assessment, contended that such documents do not belong to him. The assessor's business was of transportation. The documents contained entries regarding the oil business. In short, the assessee totally disowned such documents.

3. The Assessing Officer, principally placing reliance upon section 132(4A) of the Income Tax Act, 1961 ("the Act"

for short), however, discarded such objections and ruled that the presumption against the assessee would arise On such basis, he made addition of Rs. 30,27,987/-.

4. The assessee carried the matter in appeal before the Commissioner. The Commissioner confirmed the view of the Assessing Officer, once again placing heavy reliance upon section 132(4A) of the Act. The assessee carried the matter in further appeal. The Tribunal reversed the view of the revenue authorities and allowed the appeal of the assessee, making following observations:

"17. We have heard both the sides. We have perused the material placed before us. As per the document placed on page No 179 of the compilation, it had reflected some business transaction in respect of oil and kerosene oil. As per this typed document, there was a mention of parties from IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 36- whom a business activity was performed. The figures have mentioned the rates applied for the said commodity and the details of the amount received. This document in fact appears to be in respect of some "oil business" but there is no denial of this admitted fact that the assessee is in the business of Transport. Hence, a vehement contention is that by the very nature of document, it did not relate to the business activity of the assessor. However, there was no finding or even an allegation of the Revenue that there was such type of business at all run by the assessee it was not the case of the revenue that an undisclosed business was unearthed which was not found recorded in the books of account. Barring this paper, there is no material in possession of the Revenue to corroborate that the said paper had any connection with the accounted or unaccounted business activity of the assessee. From the side of the Revenue even no such attempt was ever made to make an enquiry from those parties whose names were printed on the said paper. Because of these reasons, Id. AR Mr. Mukund Bakshi has emphasized that the said document was nothing but a bald document. For this legal proposition, case laws cited are:-

1. ACIT vs. Satyapal Vasani 295 ITR (AT) 352 [ITAT -

Jabalpur] 2 CIT vs Girish Chaudhary (2008) 296 ITR 619 (Mad.) 3 CIT us. S.M. Aggarwal (2007) 293 ITR 43 (Del.) 4 Jaya S. Shetty vs ACIT (1999) 69 ITD 336 (Mum) 5 Bansal Strips P. Ltd. vs. ACIT (2006) 99 ITD 177 (Del.)

18. From these decisions, it transpires that if an addition is to be made on the basis of a seized document, then it must be supported by some identification having any nexus with the unaccounted business activity of the assessee. The nature of transaction should reflect some direct or indirect connection with the accounted or unaccounted activity of the assessee. If a document is silent or the ingredients could not be linked, then the said document was considered as "a dumb document". Placing reliance on these decisions, inter- alia we are of the view that the Revenue Department had not made sufficient enquiry so as to establish that in fact the said document had unearthed a concealed business activity of the assessee. In the absence of any such evidence, the addition so made by the AO remained un corroborated, hence, we hereby reverse the findings and allow this ground."

5. Counsel for the revenue vehemently contended that the Tribunal committed an error in interfering with the concurrent findings of the revenue authorities. He submitted that the assessee's explanation that the documents seized were IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 37- not found satisfactory That presumption under section 132(4A) of the Act would apply

6. We are of the opinion that the entire issue is based on appreciation of the material on record. Section 132(4A) of the Act uses the words "may presume meaning thereby that such presumption is rebuttable. In the present case, documents found pertain to entries related to oil business. The assessee's business at least accounted was of transportation. Revenue could not bring on record any material to suggest that the assessee was also involved in the business of dealing in oil Additionally, the Tribunal has correctly recorded that the documents were dump documents. Revenue did not make any attempt to inquire into the matter further from the persons whose names were reflected in such entries.

7. In short, it cannot be stated that the conclusions arrived at by the Tribunal are perverse. No error is committed by the Tribunal. Tax Appeal is dismissed.

16. Going through the views expressed in the judgment of Hon'ble jurisdictional High court and decision of Co-ordinate Bench which gives fair view that if from the seized material no nexus or reasonable conclusion can be arrived, then even if the documents are seized during the course of search, they cannot be used against the assessee. Examining the facts of the case before us, we observe that assessee-company was incorporated on 28.01.2008 and its first bank transaction was entered on 19.02.2008. Assessee-firm is having six partners namely S/Shri Vikas R. Patel, Brijesh S Patel, Dipak G. Prajapati, Kamalbhal J. Patel, Bhagvanbhai K. Aajra and Arvindbhai N. Prajapati, and the major capital has come from Shri Bhagvanbhai K. Aajra. On viewing the alleged document,

we find that the unsigned MOU is dated 31.10.2007 which is almost 4 months before the incorporation of the assessee-firm. The alleged MOU also do not fulfill the basic requirement of the valid contract which needs to a written or expressed agreement between two parties to provide a product or service and for a valid contract there has to be an intention to create legal relation, offer, acceptance, consideration and capacity to fulfill the contract. However, the alleged MOU, which is unsigned and undated, do not stand for as a valid contract and the same is not enforceable by law.

17. It seems that Id. Assessing Officer has stretched a link emanating from the seized material and has formed up a complete story along with taking a basis of impugned land which was purchased in the later part of the year and applying IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 38- the conditions embedded in the alleged MOU on to the impugned land purchase transactions thereby calculating the purchase consideration of the land in question at Rs. 6,97,50,000/-as against Rs. 1,70,00,000/-shown in the books. We notice that Id. Assessing Officer has completely disregarded relevant facts which includes the date of incorporation of the assessee-firm, actual date of registration of the land purchase document dated 12.03.2008 and the date of conversion of land in question, i.e., 01.02.2008, coupled with that Id. Assessing Officer also has not enquired from the alleged sellers about the value of transactions entered into for the sale of land. More so, Id. Assessing Officer has also ignored the glaring fact that proposal for purchasing the impugned land was brought by Shri Bhagvanbhal Aajra, who is also the partner of the assessee-firm.

....

... We are, therefore, respectfully following the judgement of the Hon'ble jurisdictional High Court and decision of Co- ordinate Bench discussed above in preceding paragraph, are of the considered view that Id. Assessing Officer erred in making the addition of Rs.5,27,50,000/- and Id CIT(A) in restricting the addition at Rs.2,55,00,000/- as it was based on undated, unsigned Memorandum of Understanding which, in our view, cannot be correlated with the assessee-firm as it was incorporated in the latter period to that of MoU stamp date nor can it be taken as corroborative evidence to make addition and also in the light of the fact that Revenue could not point out any error in the actual registered document dated 12.03.2008 entered into by the assessee-firm for the impugned land at Kalol.

19. In the result, appeal of the assessee is allowed and that of the Revenue is dismissed 19.7. Hon'ble Gujarat High Court in the case of CIT Vs. Maulkkumar K Shah, reported in (2008) 307 ITR 137 (Gujarat) has held that Mere entries in the seized material were not sufficient to prove that the assessee had indulged in such a transaction. The addition as made by the AO being based on mere presumptions and assumptions and without any corroborative evidence, could not be sustained 20 follows:

"... The assessee had constructed certain shops. There was a search of the assessee's premises and a diary was seized in which the asomme had estimated rates of these shops. The assessee had booked sold 35 shops as on date of search.

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- 39- Because of the difference in rates as mentioned in the seized paper and the books of account, the Assessing Officer calculated the 'on-money' and made addition accordingly.

Held that notings in the seized diary found from the premises were the only material on the basis of which the Assessing Officer had made the impugned additions. The Assessing Officer had not brought any corroborative material on record to prove that such sales were made and on-money was received by the assessee outside the books of account. The Assessing Officer had not examined any purchaser to whom the sales of shops were affected Onus heavily lay on the revenue to prove with corroborative evidence that the entries in the seized diary actually represented the sales made by the assessee. Such onus had not been discharged by the revenue. Mere entries in the seized material were not sufficient to prove that the assessee had indulged in such a transaction The inference of the Assessing Officer that the assessee has received 'on-money, was merely based on suspicion and surmises and there was no material whatsoever to support the conclusion of the Assessing Officer that the assessee had in fact received any on-money. The addition as made by the Assessing Officer being based on mere presumptions and assumptions and without any corroborative evidence could not be sustained..."

19.8. Hon'ble Supreme Court in the case of Common Cause A Registered Society) Vs. Union of India, reported in (2017) 77 taxmann.com 245 (SC) held as follows:

"...Section 69A of the Income-tax Act, 1961, read with section 34 of the Indian Evidence Act, 1872 Unexplained money (Loose papers) Raids were conducted on two business groups and incriminating materials in form of random sheets and loose papers, computer prints, hard disk, pen drive etc were found Evidence of certain highly incriminating money transactions were also found However, department had no evidence to prove that entries in these loose papers and electronic data were kept regularly during course of business of concerned business house Whether thus, these detailed documents recovered by authorities had no evidentiary values and they could not have been relied on to direct registration of FIR and investigation in case of high public functionaries occupying important offices Hold y Whether further, materials in question were not only relevant but were also legally inadmissible under section 34 of ITSSJA 4 29/2023 & 4 or Priya Blue Ind P Ltd & Hoogly Ship Breakers Ltd. Page 39 Evidence Act- Held, yes [Paras 22, 24 & 27] [In favour of assessee..."

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- 40- 19.9. Hon'ble Gujarat High Court in the case of Commissioner of income-tax Officer Vs. Bharat A. Mehta, reported in (2015) 60 taxmann.com 31 (Gujarat).

"... Section 69 of the Income-tax Act, 1961-Unexplained investment (Investment in property) Assessment year 1992-93 Assessee purchased a bunglow in a housing scheme from a bullder firm during search, partners of sald firm admitted having received certain amount as 'on money from buyers of bungalows in sald scheme. On basis of that material Assessing Officer made certain addition under section 69 to income of assessee on account of on money paid to builders On appeal, Tnbunal deleted addition holding that revenue failed to prove that assessee had made undisclosed investment in aforesaid bunglow Whether as findings recorded by Tribunal were based on appreciation of facts, no interference was called for- Held, yes [Paras 9 and 10] [in favour of assessee]..."

19.10. In view of the above aspects in relation of the concerned two shipa namely ship 'Arena' and ship Opportunity become crystal clear that ship breaking activities were carried out in plot V-2 by HSBL and not pursuant to the Joint Venture Agreement entered with PBPL/the assessee company Resultant income from such ship breaking activities were declared by HSBL and filed its Return of Income, under such circumstances the Ld. AO and the Ld. CIT(A) were not justified in holding that shipbreaking activities were carried out in plot V-2 pursuant to the Joint Venture Agreement entered between the assessee company and HSBL Accordingly, the authorities were also not justified in making addition in respect of income earned by HSBL, therefore the entire addition of Rs. 11,29,61,022/ is liable to be deleted in the hands of the assessee company. In the result the Ground No.4 raised by the assessee is fully allowed and Ground No.1 raised by the Revenue is fully dismissed."

5.13 It is relevant to refer to decision of the Hon'ble Delhi High Court in the case of CIT vs Anil Bhalla in IT APPEAL NO. 1415 OF 2009 Dated 01/02/2010 wherein it is held as under.-

"Section 69C of the Income-tax Act, 1961-Unexplained expenditure -Block period 1-4-1989 to 10-02-2000 Where no independent material or evidence had been brought on record by Assessing Officer to establish that notings/jottings recorded on loose sheet of paper seized during search represented an unaccounted transaction and Tribunal held that entries in question belonged to some IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 41- company, inasmuch as assessee could explain from books of such company that these projects were undertaken by it, and Tribunal held that loose sheet did not represent any expenditure incurred by assessee, deletion of addition based on loose sheet, treating it as unexplained expenditure in assessee's hands was justified (in favour of assessee) As no independent material or evidence had been brought on record by the Assessing Officer to establish that the notings/jottings recorded on the loose sheet of paper seized during search represented an unaccounted transaction and the Tribunal held that the entries in question belonged to VTPL inasmuch as the assessee chuld expten from the books of VTPL that these projects were undertaken by it and that the Tribune held that the loose sheet did not represent any expenditure acured by the Held that, deletion of addition based on the loose sheet, treating it as

unexplained expenditure in assessee's hands, was justified as the findings arrived at by the Tribunal were pure findings of fact and did not warrant any interference by the court"

5.14 It is relevant to refer to decision of the Hon'ble Ahmedabad ITAT in the case of Nishant Construction in ITA No.1502/Ahd/2015 dated 18/03/2017:-

30. In our understanding of the facts, the impounded loose sheet can at the most be termed as "dumb document which did not contain full details about the dates, and its contents were not corroborated by any material and could not relied upon and made the basis of addition.

31. In the case of CIT vs. Kulwant Rai 291 ITR 36 the ruling given in the case of Dhakesward Colton Milts Ltd. 26 ITR 775 by the Hon'ble Supreme Court has been relied upon wherein the Hon'ble Supreme Court has held even though Income Tax Authorities including the Assesong Officer has unfettered discretion and not strictly bound by the rules and pleadings as well as materials on record and is legitimately entitled to act on the material which may not be accepted as evidence, nevertheless such discretion does not entitle them to make a pure guess and base an assessment entirely upon it without reference to any material or evidence at all.

32. Considering the facts of the case in hand in totally and in the light of the judicial decisions referred to hereinabove, we do not find any merit in the impugned additions. We, therefore, sat aside the findings of the id IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

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CIT(A) and direct the AO to delete the addition of Rs. 32.56 crores"

5.15 It is relevant to refer to the Hon'ble Ahmedabad ITAT in the case of Nishant Construction Pvt. Limited V/s ACIT 1502/Ahd/2015, dated 14th February, 2017 wherein it is held as under.

".....25. Coming to the evidentiary value of the impounded loose sheet mentioned elsewhere, the Hon'ble Supreme Court in the case of Common Cause (A Registered Society) and Others vs. Union of India and Others in Writ Petition Civil Appeal No. 505 of 2015 has observed as under:-

16. With respect to the kind of materials which have been placed on record, this Court in V.C. Shukla's case (supra) has dealt with the matter though at the stage of discharge when investigation had been completed but same is relevant for the purpose of decision of this case also. Thus Court has considered the entries in Jain Hawala diaries, note books and file containing loose sheets of papers not in the form

of "Books of Accounts and has held that such entries in loose papers/sheets are relevant and not admissible under Section 34 of the Evidence Act, and that only where the entries are in the books of accounts regularly kept depending on the nature of occupation, that those are admissible.

17. It has further been laid down in V.C. Shukla (Supra) as to the value of entries in the books of account that such statement shall not alone be sufficient evidence to charge any person with liability, even if they are relevant and admissible, and that they are only corroborative evidence. It has been held even then independent evidence is necessary as to trustworthiness of those entries which is a requirement to fasten the liability.

26. The Hon'ble Supreme Court further observed-

17. From a plain reading of the Section it is manifest that to make an entry relevant thereunder it must be shown that it has been made in a book, that book is a book of account and that book of account has been regularly kept in the course of business. From the above Section it is also manifest that even if the above requirements are fulfilled and the entry becomes admissible as/ relevant evidence, still, the statement made therein shall not alone be sufficient evidence to charge any person with liability. It is thus seen that while the first part of the section speaks of the relevancy of the entry as evidence, the second part speaks, in a negative way, of its evidentiary value for charging a person with a liability it will, therefore, IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

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be necessary for us to first ascertain whether the entries in the documents, with which we are concerned, fulfill the requirements of the above section so as to be admissible in evidence and if this question is answered in the affirmative then only its probative value need be assessed.

27. With respect to evidentiary value of regular account book, the Hon'ble Supreme Court in the case of V.C. Shukla 1998 (3) SCC 410 has laid down:-

"37. In Beni v. Bisan Dayal it was observed that entries in books of account are not by themselves sufficient to charge any person with liability, the reason being that a man cannot be allowed to make evidence for himself by what he chooses to write in his own books behind the back of the parties. There must be independent evidence of the transaction to which the entries relate and in absence of such evidence no relief can be given to the party who relies upon such entries to support his claim against another. In Hira Lal v. Ram Rakhe the High Court, while negating a contention that it having been proved that the books of account were regularly kept in the ordinary course of business and that, therefore, all entries therein should be considered to be relevant and to have been proved, said, that the rule as laid down in Section 34 of Tie

Act that entries in the books of account regularly kept in the course of business are relevant whenever they refer to a matter in which the Court has to enquire was subject to the salient proviso that such entries shall not alone be sufficient evidence to charge any person with liability it is not, therefore, enough merely to prove that the books have been regularly kept in the course of business and the entries therein are correct it is further incumbent upon the person relying upon those entries to prove that they were in accordance with facts.

28. It is apparent from the aforesaid discussion that the loose sheet of papers are wholly irrelevant as evidence being not admissible u/s. 34 so as to constitute evidence with respect to the transactions mentioned therein being of no evidentiary value.

29. Moreover, the Assessing Office did not make any inquiry from buyers of flat in respect of actual prices paid by them. He also did not make any other inquiry in order to corroborate his conclusion. There is no incriminating evidence to show that the assessee has sold the flats at a higher rate.

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30. In our understanding of the facts, the impounded louse sheet can at the most be termed as "dumb document"

which did not contain full details about the dates, and its contents were not corroborated by any material and could not relied upon and made the basis of addition.

31. In the case of CIT vs. Kulwant Rai 291 ITR 36 the ruling given in the case of Dhakeswari Cotton Mills Ltd. 26 ITR 775 by the Hon'ble Supreme Court has been relied upon wherein the Hon'ble Supreme Court has held even though Income Tax Authorities including the Assessing Officer has unfettered discretion and not strictly bound by the rules and pleadings as well as materials on record and is legitimately entitled to act on the material which may not be accepted as evidence, nevertheless such discretion does not entitle them to make a pure guess and base an assessment entirely upon it without reference to any material or evidence at all

32. Considering the facts of the case in hand in totality and in the light of the judicial decisions referred to hereinabove, we do not find any merit in the impugned additions. We, therefore, set aside the findings of the Id. CIT(A) and direct the A.O. to delete the addition of 32.56 crores."

The above decision was upheld by the Hon'ble Jurisdictional High Court of Gujarat in 101 taxmann.com 179 [2019] wherein it is held as under-

"5. We have heard learned counsel for the parties and perused the documents on record. The Tribunal discarded loose document on the ground that the same did not

pertain to assessee's schemes Ratnakar 3 and Ratnakar 4 since the document referred to the areas and rates of the penthouse whereas scheme Ratnakar 3 does not have a penthouse and scheme Ratnakar 4 does not have 4 BHK Flats and though has penthouse, area does not match with the loose document. This therefore is substantially a question of fact. If we eliminate these documents from consideration, what Revenue would have are the admissions made by the representative of M/s Sambhav Infrastructure Pvt. Ltd of having received on- money in sale of flats and the comparison by the Revenue authorities of the given rates for the constructed properties in the same area Firstly neither the Assessing Officer nor the CIT (Appeals) had compared the rates of Ms. Sambhav Infrastructure Pvt. Ltd or any other constructed properties which was sold during the same time in the same area. Even after making the additions in case of Mis Sambhav Infrastructure Pvt. Ltd with the aid of the confessional IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 45- statements made by the representative, neither the Assessing Officer nor the CIT (Appeals) co-related the sale with that of the assesseees by establishing that the sales were during the same period in relation to the properties which offered similar advantages, in fact, their contention was that this demonstrated a uniform trend or a pattern in the industry of cash transactions."

The SLP filed by the Department against the above decision is also dismissed by the Hon'ble Supreme Court in 101 taxmann.com 180 [2019].

5.16 In view of above discussion, it is observed that entire addition has been made by the AO without bringing clinching evidence to prove that the appellant has made on-money payment towards purchase of land as alleged by the AO. The entire addition made by the AO is therefore deleted based upon detailed findings given herein above, which is summarized as under:-

(i) The loose material seized from the premises of Shri Alap Patel nowhere contain name of the appellant or other purchaser, signature of either party, land survey number which are transacted by Shri Alap Patel. Even such loose paper no where contain date wise purchase/sale which can support the contention of the AO that such loose paper reflects actual value of "Godhavi land"

(ii) It is observed that entire addition has been considering loose material found during the course of search at Shri Alap Patel on 08/12/2020 wherein no incriminating evidence suggesting date wise on money receipt was found

(iii) It is observed that a search u/s, 132 of the Act was simultaneously carried out in case of Shri Jankhit Prajapati (one of the purchasers of Godhavi land) on 08-12-2020 and even in his order, the AO has not referred to any cash trail which can prove that he has made any on-money payment to Shri Alap Patel for Godhavi land.

(iv) Subsequently a search u/s. 132 of the Act was also carried out in B-Safal Group including Shri Rajesh Brahmhatt & Rupesh Brahmhatt on 28.09.2021 (one of the purchasers of Godhavi land) and no evidences were brought on record to prove that even such purchaser has made on-money payment to Shri Alap Patel.

(v) During the course of search, statement of Shri Alap Patel was recorded u/s 132(4) of the Act wherein he has categorically stated that such loose paper contains projection The noting of IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

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such seized material nowhere contains "cash" against figures mentioned therein it is observed that in such statement, Shri Alap Patel has never admitted that figures noted in seized material is for area of land and rate of land as assumed by the AO in assessment order.

(vi) No statement of other buyers including the appellant was recorded post-search proceedings in case of Shri Alap Patel wherein they have admitted any on-money payment as alleged by the AO. No statement u/a. 131 was recorded by AO which suggests involvement of cash towards purchase of land.

(vii) The left side of loose page is considered to be debts to be repaid by Shri Alap Patel but there is no corroboration of noting with actual debt of such person.

(viii) The right side of noting which contains "Godhavi" and contains amount of 85, 40, 30° aggregating to Rs. 155 crore is not corroborated by AQ with actual cash transaction. The notings of 34000 is for 34000 square meter of land is not proved by the AO. Similarly, 25,000 relates to rate of land per sq. mtr is also not proved by the AO with other cogent evidences, The AO has not made any other independent inquiries to prove that notings on right side actually refers to sale value of Godhavi land by Shri Alap Patel.

(ix) Various judicial pronouncements referred to above clearly supports the contention of the appellant.

5.17 In view of above factual discussion and legal matrix of the case, entire addition made by the AO for Rs.17,28,11,249/-is deleted. Thus, the grounds. of appeal no. 3 to 5 are allowed.

5.2 It is observed that appellant is also one of the sellers of part land at Godhavi for which impugned addition has been made by the AO which is similar to addition made in case of Smt. Sonal Khandwala being one of the purchasers of the same land. As issue involved in present appeal is identical, following the decision referred supra, addition of Rs.3,55,69,687/- made in present case is deleted. Thus, the grounds of appeal no. 3 & 7 are allowed.

6. The grounds of appeal no. 1, 2, 4 to 6 relate to the validity of the Assessment Order passed under section 153A of the Act. It is observed that since the grounds of appeal no. 3 & 7 related to merit of the case, has been decided in favour of the appellant, therefore, this ground become infructuous, hence not adjudicated. Thus, the ground of appeal no. grounds of appeal no. 1, 2, 4 to 6 are dismissed.

7. The ground of appeal no. 8 relates to the AO invoking the provisions of Section 115BBE of the Act for computing tax liability of the Appellant. The IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 47- Appellant has denied any liability to pay tax as computed by the AO under Section 115BBE of the Act. The various additions made by the AO are already adjudicated separately and when such additions itself are deleted, provisions of Section 115BBE is not applicable. This ground of appeal is partly allowed.

8. The ground of appeal no. 9 relates to charging of interest u/s 234A, 234B, 234C and 234D of the Act. Since the charge of interest is consequential in nature this ground of appeal is dismissed.

9. The ground of appeal no. 10 relates to initiation of penalty proceedings u/s 271AAC of the Act, being premature in nature hence this ground of appeal is dismissed.

10. The grounds of appeal no. 11 & 12 are general in nature, hence dismissed.

11. In the result, the appeal is partly allowed."

38. The Department is in appeal before us against the order passed by CIT(Appeals) allowing the appeal of the assessee. The assessee has also filed Cross Objections, primarily supporting the order of CIT(Appeals).

39. At the outset, the ld. counsel for the assessee submitted that before us that he shall not be pressing any of the grounds on the Cross Objections filed either for this assessee and also with respect to other assessee's who are part of the same transaction. Accordingly, the CO filed by the assessee (for this assessee and other Cross Objections with respect to other related assessee's are being dismissed as "Not Pressed").

40. We have heard the rival contentions advanced by the ld. Departmental Representative and the ld. counsel for the assessee at considerable length and have also carefully perused the assessment order, the impugned order passed by the CIT(Appeals), the paper-book filed before us, the seized material placed on record, as well as the statements recorded during the course of search proceedings under section 132(4) of the Act. We have also considered the judicial precedents relied upon by both the sides. Upon an overall IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 48- consideration of the factual matrix emerging from the record, we are of the considered view that the impugned order passed by the CIT(Appeals) suffers from serious factual as well as analytical infirmities which render the appellate order unsustainable in its present form and necessitate restoration of the matter back to the file of the CIT(Appeals) for fresh adjudication.

41. At the outset, we observe that the entire basis adopted by the CIT(Appeals) for granting relief to the assessee is substantially founded upon the findings recorded in the cases of the purchasers of the lands, particularly purchasers such as Shri Jankit C. Prajapati, Sonal Rajeshbhai Khandwala and connected parties. The CIT(Appeals) has repeatedly observed that since no incriminating material evidencing payment of on-money was found from the premises of the purchasers and since relief was granted in the purchasers' cases, the addition made in the hands of the present assessee could not survive. However, in our considered opinion, the appellate authority has failed to appreciate that the factual position in the case of the purchasers and the factual position in the case of the present assessee stand on materially different footing. In the present case, admittedly, incriminating loose papers were found and seized from the possession and control of the assessee himself during the course of search proceedings. Further, the assessee himself admitted ownership and authorship of the seized document during the course of statement recorded under section 132(4) of the Act. These crucial distinguishing features were not present in the cases of the purchasers. Therefore, the CIT(Appeals), in our considered view, could not have mechanically imported the findings recorded in the purchasers' cases into the assessee's case without independently examining the evidentiary value of the seized material found from the possession of the assessee himself.

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42. We further find substance in the contention advanced by the Revenue that even the reliance placed by the CIT(Appeals) upon the orders passed in the cases of the purchasers was itself not entirely justified on facts. It has specifically been pointed out before us that in the case of Smt. Sonal Rajeshbhai Khandwala, the assessment order had been passed ex-parte and the matter had not been contested before the Assessing Officer on merits. Therefore, merely because no addition survived or relief was granted in the purchaser's case could not, by itself, conclusively establish that the seized material found from the possession of the present assessee lacked evidentiary value. The CIT(Appeals), in our considered view, ought to have independently examined the seized material, the surrounding circumstances and the statement recorded from the assessee rather than granting relief substantially on the basis of findings recorded in collateral proceedings involving purchasers.

43. A further serious infirmity which, in our considered opinion, vitiates the impugned order passed by the CIT(Appeals) is that the appellate authority has not properly appreciated or analyzed the contents of the statement recorded from the assessee under section 132(4) of the Act. From the records placed before us, particularly Question Nos. 34 and 35 appearing at pages 394-395 of the paper-book, it prima facie emerges that the assessee had specifically explained the right-hand side of the loose sheet as representing "plan for selling" the plots. The expression used by the assessee in the statement assumes considerable significance because if the seized sheet itself represented a

"plan for selling" the plots, the same would prima facie indicate that the loose sheet was prepared prior to the sale of lands and related to proposed sale transactions. However, the CIT(Appeals), while granting relief IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 50- to the assessee, proceeded on the footing that the loose sheet represented merely future projections for repurchase of lands after the lands had already been sold. In our considered opinion, the CIT(Appeals) failed to reconcile this apparent contradiction arising directly from the statement recorded under section 132(4) of the Act.

44. Further, it has specifically been pointed out by the Revenue before us that at Question No. 35 of the statement, the assessee had allegedly admitted existence of cash component with respect to sale of properties referred to in the seized document. However, while passing the impugned order, the CIT(Appeals), particularly in the discussion appearing at page 53 of the appellate order, proceeded on the assumption that the assessee had never admitted receipt of any cash component in relation to the land transactions. Prima facie, therefore, there appears to be a serious disconnect between the actual contents of the statement recorded under section 132(4) of the Act and the factual assumptions proceeded upon by the CIT(Appeals) while granting relief. Since the statement recorded under section 132(4) of the Act constitutes a material piece of evidence forming part of the search proceedings, the appellate authority was under obligation to analyze the statement in its entirety and to reconcile the incriminating portions thereof with the explanation subsequently advanced by the assessee. In our considered view, such exercise has not been properly undertaken in the impugned appellate order.

45. We further observe that the CIT(Appeals), while accepting the assessee's explanation that the seized sheet represented merely future investment projections prepared after Rakshabandhan for repurchase of lands IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 51- for family members, has not properly examined whether such explanation was consistent with the statement recorded from the assessee during search proceedings. The assessee's stand before the appellate authority was that the loose sheet represented future projections for reacquisition of lands after the earlier lands had already been sold. However, if, as emerging from Question Nos. 34 and 35, the assessee himself had explained the document as a "proposed sale plan", then prima facie the loose sheet appears to have been prepared before the sale transactions and not after completion of the sales. This aspect assumes critical importance because the entire explanation advanced by the assessee before the CIT(Appeals) is founded upon the assertion that the document was prepared after Rakshabandhan in August 2020 as a future family investment projection. The CIT(Appeals), in our considered opinion, has not undertaken any proper factual reconciliation of these materially contradictory stands emerging from the statement and the subsequent explanation furnished by the assessee.

46. We also find that the CIT(Appeals), while repeatedly observing that no incriminating material was found from the purchasers, failed to adequately deal with the equally important fact that the

incriminating loose sheet was admittedly found from the premises of the assessee himself and further that the handwriting appearing thereon was admitted by the assessee to be his own handwriting. The contents of the seized document were also not disputed by the assessee. Further, the statement recorded under section 132(4), as pointed out by the Revenue, was never retracted by the assessee at any subsequent stage. These are material factual circumstances which required detailed examination by the appellate authority. However, from a perusal of the impugned order, it appears that the appellate authority proceeded primarily IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 52- on the footing that absence of corroborative evidence from the purchasers was sufficient to dislodge the evidentiary value of the seized document found from the assessee's possession. In our considered opinion, such approach is incomplete and does not constitute a comprehensive adjudication of the evidentiary material available on record.

47. Another important aspect which appears to have escaped proper consideration by the CIT(Appeals) is that the statement of the assessee recorded during the course of search proceedings contains separate explanations with respect to the left-hand side and the right-hand side of the seized document. As pointed out by the Revenue, the explanation regarding left-hand side entries appears upto page 364 of the paper-book, whereas later pages and more particularly pages 393-394 deal with the right-hand side entries which formed the very basis of additions made by the Assessing Officer. The CIT(Appeals), however, appears to have considered only selected portions favourable to the assessee without undertaking a complete analysis of the entire statement in a holistic manner. Since the additions made by the Assessing Officer were founded primarily upon the right-hand side entries of the seized sheet and the corresponding explanations given by the assessee in his statement, the appellate authority was required to specifically analyze such portions before granting relief. In our considered opinion, the impugned order lacks such analytical examination.

48. We also find prima facie merit in the contention advanced by the Revenue that the explanation accepted by the CIT(Appeals) suffers from internal inconsistency. The assessee's stand before the appellate authority was that the left-hand side of the seized sheet represented proposed sources IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 53- of funds required for repurchase of lands already sold. However, if the assessee's own statement under section 132(4) of the Act, particularly Question Nos. 34 and 35, is read literally to mean that the loose sheet represented a "proposed sale plan", then the lands had not yet been sold at the time of preparation of the document. If that be so, the explanation that the left-hand side represented future funding requirement for repurchase of lands already sold prima facie becomes inconsistent with the chronology emerging from the statement itself. The CIT(Appeals), in our considered view, ought to have specifically examined and reconciled this aspect before accepting the assessee's explanation in toto.

49. We are also constrained to observe that the impugned appellate order, despite running into several pages, does not contain a complete and independent appreciation of the seized document, the statement recorded under section 132(4) of the Act, the correlation drawn by the Assessing

Officer with actual land transactions and the precise rebuttal offered by the assessee thereto. The appellate authority has largely proceeded on the basis that since no corroborative evidence was found from the purchasers and since relief was granted in purchasers' cases, the addition in the hands of the assessee was liable to be deleted. However, the appellate authority was required to independently adjudicate the evidentiary value of the seized loose sheet found from the assessee's possession, the admitted handwriting thereon, the contents of the statement recorded during search proceedings and the extent to which such material corroborated or contradicted the explanation advanced by the assessee. In absence of such independent and comprehensive adjudication, the impugned order, in our considered opinion, cannot be sustained.

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50. Since various factual aspects arising from the seized document and the statement recorded under section 132(4) have not been comprehensively examined by the CIT(Appeals), we are of the considered view that the interests of justice would be best served if the matter is restored back to the file of the CIT(Appeals) for fresh adjudication after granting adequate opportunity of hearing to both the sides.

51. Accordingly, in light of the serious factual discrepancies, incomplete appreciation of evidentiary material, apparent misreading of portions of the statement recorded under section 132(4) of the Act, and the need for comprehensive re-examination of the seized document and connected evidence, we restore the matter back to the file of CIT(Appeals) for de novo adjudication in accordance with law. The CIT(Appeals) shall independently examine the seized material, the statement recorded from the assessee including Question Nos. 34 and 35, the explanation furnished by the assessee, the evidentiary relevance of proceedings in the purchasers' cases, and all other factual and legal contentions raised by both the sides, uninfluenced by any observations contained in the earlier appellate order. Needless to clarify, the assessee shall be afforded adequate opportunity of hearing and shall be at liberty to place all material and contentions in support of his case.

52. In the combined result, the appeal of the Revenue (in IT(SS)A No. 163/Ahd/2024) is allowed for statistical purposes and the Cross Objection (in C.O. No. 47/Ahd/2024) filed by the assessee stands dismissed as not pressed.

Next we take up Department's appeal for A.Y. 2020-21 in IT(SS)A No. 164/Ahd/2024 and assessee's Cross Objection in C.O. No. 48/Ahd/2024 IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

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53. The Department has raised the following grounds of appeal:

IT(SS)A No. 164/Ahd/2024 (A.Y. 2020-21) "1. The Ld. CIT(A) has erred in deleting the addition of Rs. 15,73,36,299/- made by the Assessing Officer u/s. 69A of the Income Tax Act on account of on-money received by the assessee towards his share in the non-agricultural land at Godhavi sold to the builder group.

2. The Ld. CIT(A) has erred in deleting the addition ignoring the incriminating documents found during the course of search at the assessee's premise and written in the assessee own hand writing, not appreciating the detailed analysis made by the A.O. in the assessment order.

3. The Ld. CIT(A) has erred by deleting the addition by relying on his own decision in the case of one of the buyers Smt. Sonal Rakesh Khandwala ignoring that any argument put forth by the purchaser/investor will be self-serving and the incriminating evidences found and seized in the assessee's premise cannot be ignored.

4. The Revenue craves leave to add/alter/armed and/or substitute any or all of the grounds of appeal."

54. The assessee has raised the following grounds of appeal in Cross Objection:

C.O. No. 48/Ahd/2024 (A.Y. 2020-21) "1. The Assessing Officer (AO) has not complied with the provisions of Sec. 153D of the Act. AO passed Assessment Order without obtaining valid approval u/s. 153D of the Income Tax Act. The approval granted u/s. 153D should be after application of mind and not mechanically. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

2. The Assessing Officer (AO) had not made any independent inquiry u/s 133(6) or by issuing summon u/s 131 of the Act from the purchaser with respect to alleged on-

money paid for purchase of land at Godhavi of Rs. 15,73,36,299/- to appellant. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

3. Your appellant also reserves its right to submit details in connection with the aforesaid additions / disallowances as fresh evidence as per Rule 46A of the I.T. Rules, 1962 at the time of hearing of this appeal.

4. Your appellant craves liberty to add, to alter, to modify, to amend or to withdraw / delete any of the grounds of appeal at any time, on or before the hearing of appeal."

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55. We note that the facts and issues for consideration are similar as those for A.Y. 2019-20. Since lead matter is hereby restored to the file of CIT(A) for de-novo consideration, accordingly, Department's appeal for A.Y. 2020-21 in IT(SS)A No. 164/Ahd/2024 is restored to the file of Ld. CIT(A) for de-novo consideration and assessee's Cross Objection in C.O. No. 48/Ahd/2024 for A.Y. 2020-21 is dismissed for the reasoning given in the preceding paragraphs, wherein the Counsel for the assessee specifically submitted that he shall not be pressing the ground relating to Cross Objection, but to the extent that they are in support of observations made by Ld. CIT(A) in appellate order.

56. In the combined result, the appeal of the Revenue (in IT(SS)A No. 164/Ahd/2024) is allowed for statistical purposes and the Cross Objection (in C.O. No. 48/Ahd/2024) filed by the assessee stands dismissed as not pressed.

Next we shall deal with Department's appeal in the case of Dahiben Somabhai Patel for A.Y. 2019-20 (in IT(SS)A No. 169/Ahd/2024) and assessee's Cross Objection (in C.O. No. 49/Ahd/2024) and also the Department's appeal in the case of Dahiben Somabhai Patel for A.Y. 2020-21 (in IT(SS)A No. 170/Ahd/2024) and assessee's Cross Objection (in C.O. No. 50/Ahd/2024) for A.Y. 2020-21.

57. The Department has raised the following grounds of appeal:

IT(SS)A No. 169/Ahd/2024 (A.Y. 2019-20) "1. The Ld. CIT(A) has erred in deleting the addition of Rs. 3,55,69,687/- made by the Assessing Officer u/s. 69A of the Income Tax Act on account of on-money received by the assessee towards his share in the non-agricultural land at Godhavi sold to the builder group.

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2. The Ld. CIT(A) has erred in deleting the addition ignoring the incriminating documents found during the course of search at the premise of one of co-owners/sellers and written in his own handwriting, not appreciating the detailed analysis made by the A.O. in the assessment order.

3. The Ld. CIT(A) has erred by deleting the addition by relying on his own decision in the case of Smt. Sonal Rakesh Khandwala who was a purchaser in a different transaction ignoring that any argument put forth by any purchaser/investor will be self-serving and the incriminating evidences found and found and seized in one of the sellers premise cannot be ignored.

4. The Revenue craves leave to add/alter/amend and/or substitute any or all of the grounds of appeal."

IT(SS)A No. 170/Ahd/2024 (A.Y. 2020-21) "1. The Ld. CIT(A) has erred in deleting the addition of Rs. 15,73,36,299/- made by the Assessing Officer u/s. 69A of the Income Tax Act on account of on-money received by the assessee towards his share in the non-agricultural land at Godhavi sold to the builder group.

2. The Ld. CIT(A) has erred in deleting the addition ignoring the incriminating documents found during the course of search at the premise of one of co-owners/sellers and written in his own handwriting, not appreciating the detailed analysis made by the A.O. in the assessment order.

3. The Ld. CIT(A) has erred by deleting the addition by relying on his own decision in the case of Smt. Sonal Rakesh Khandwala who was a purchaser in a different transaction ignoring that any argument put forth by any purchaser/investor will be self-serving and the incriminating evidences found and found and seized in one of the sellers premise cannot be ignored.

4. The Revenue craves leave to add/alter/amend and/or substitute any or all of the grounds of appeal."

58. The assessee has raised the following grounds of appeal in Cross Objection:

C.O. No. 49/Ahd/2024 (A.Y. 2019-20) "1. The Assessing Officer (AO has not complied with the provisions of Sec. 153D of the Act. AO passed Assessment Order without obtaining valid approval u/s. 153D of the Income Tax Act. The approval granted u/s. 153D should be after application of mind and not mechanically. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

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2. The Assessing Officer (AO) had not made any independent inquiry u/s 133(6) or by issuing summon u/s 131 of the Act from the purchaser with respect to alleged on- money paid for purchase of land at Godhavi of Rs. 3,55,69,687/- to appellant. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

3. Your appellant also reserves its right to submit details in connection with the aforesaid additions / disallowances as fresh evidence as per Rule 46A of the I.T. Rules, 1962 at the time of hearing of this appeal.

4. Your appellant craves liberty to add, to alter, to modify, to amend or to withdraw / delete any of the grounds of appeal at any time, on or before the hearing of appeal."

C.O. No. 50/Ahd/2024 (A.Y. 2020-21) "1. The Assessing Officer (AO has not complied with the provisions of Sec. 153D of the Act. AO passed Assessment Order without obtaining valid approval

u/s. 153D of the Income Tax Act. The approval granted u/s. 153D should be after application of mind and not mechanically. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

2. The Assessing Officer (AO) had not made any independent inquiry u/s 133(6) or by issuing summon u/s 131 of the Act from the purchaser with respect to alleged on- money paid for purchase of land at Godhavi of Rs. 15,73,36,299/- to appellant. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

3. Your appellant also reserves its right to submit details in connection with the aforesaid additions / disallowances as fresh evidence as per Rule 46A of the I.T. Rules, 1962 at the time of hearing of this appeal.

4. Your appellant craves liberty to add, to alter, to modify, to amend or to withdraw / delete any of the grounds of appeal at any time, on or before the hearing of appeal."

59. We note that Dahiben Somabhai Patel is the mother and co-owner in the lands sold at Godhavi and accordingly, the facts and issues for consideration as discussed in IT(SS)A No. 163/Ahd/2024 and C.O. No. 47/Ahd/2024 shall equally apply to the present cases as well.

60. Accordingly, in light of the observations above, Department's appeal in IT(SS)A Nos. 169/Ahd/2024 and 170/Ahd/2024 are allowed for statistical IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 59- purposes (being restored to the file of Ld. CIT(A) for de-novo consideration in the light of our observations in the preceding paragraphs) and C.O. Nos. 49/Ahd/2024 & 50/Ahd/2024 filed by the assessee are being dismissed as not pressed.

Now we shall come to Department's appeal in the case of Amrutbhai Babaldas Patel in IT(SS)A No. 159/Ahd/2024 (for A.Y. 2019-20) and IT(SS)A No. 160/Ahd/2024 (for A.Y. 2020-21) and assessee's Cross Objection in C.O. No. 45/Ahd/2024 and 46/Ahd/2024 (for A.Ys. 2019-20 & 2020-21)

61. The Department has raised the following grounds of appeal:

IT(SS)A No. 159/Ahd/2024 (A.Y. 2019-20) "1. The Ld. CIT(A) has erred in deleting the addition of Rs. 2,03,55,000/- made by the Assessing Officer u/s. 69A of the Income Tax Act on account of on-money received by the assessee towards his share in the non-agricultural land at Godhavi sold to the builder group.

2. The Ld. CIT(A) has erred in deleting the addition ignoring the incriminating documents found during the course of search at the premise of one of co-owners/sellers and written in his own handwriting, not appreciating the detailed analysis made by the A.O. in the assessment order.

3. The Ld. CIT(A) has erred by deleting the addition by relying on his own decision in the case of Smt. Sonal Rakesh Khandwala who was a purchaser in a different transaction ignoring that any argument put forth by any purchaser/investor will be self-serving and the incriminating evidences found and found and seized in one of the sellers premise cannot be ignored.

4. The Revenue craves leave to add/alter/amend and/or substitute any or all of the grounds of appeal."

IT(SS)A No. 160/Ahd/2024 (A.Y. 2020-21) "1. The Ld. CIT(A) has erred in deleting the addition of Rs. 8,28,83,333/- made by the Assessing Officer u/s. 69A of the Income Tax Act on account of on-money received by the assessee towards his share in the non-agricultural land at Godhavi sold to the builder group.

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2. The Ld. CIT(A) has erred in deleting the addition ignoring the incriminating documents found during the course of search at the premise of one of co-owners/sellers and written in his own handwriting, not appreciating the detailed analysis made by the A.O. in the assessment order.

3. The Ld. CIT(A) has erred by deleting the addition by relying on his own decision in the case of Smt. Sonal Rakesh Khandwala who was a purchaser in a different transaction ignoring that any argument put forth by any purchaser/investor will be self-serving and the incriminating evidences found and found and seized in one of the sellers premise cannot be ignored.

4. The Revenue craves leave to add/alter/amend and/or substitute any or all of the grounds of appeal."

62. The assessee has raised the following grounds of appeal in Cross Objection:

C.O. No. 45/Ahd/2024 (A.Y. 2019-20) "1. The Assessing Officer (AO) has not complied with the provisions of Sec. 153D of the Act. AO passed Assessment Order without obtaining valid approval u/s. 153D of the Income Tax Act. The approval granted u/s. 153D should be after application of mind and not mechanically. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

2. The Assessing Officer (AO) had not made any independent inquiry u/s 133(6) or by issuing summon u/s 131 of the Act from the purchaser with respect to alleged on-

money paid for purchase of land at Godhavi of Rs. 3,55,69,687/- to appellant. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be

quashed.

3. Your appellant also reserves its right to submit details in connection with the aforesaid additions / disallowances as fresh evidence as per Rule 46A of the I.T. Rules, 1962 at the time of hearing of this appeal.

4. Your appellant craves liberty to add, to alter, to modify, to amend or to withdraw / delete any of the grounds of appeal at any time, on or before the hearing of appeal."

C.O. No. 46/Ahd/2024 (A.Y. 2020-21) "1. The Assessing Officer (AO has not complied with the provisions of Sec. 153D of the Act. AO passed Assessment Order without obtaining valid approval u/s. 153D of the Income Tax Act. The approval granted u/s. 153D should be after application of mind and not mechanically. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

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2. The Assessing Officer (AO) had not made any independent inquiry u/s 133(6) or by issuing summon u/s 131 of the Act from the purchaser with respect to alleged on- money paid for purchase of land at Godhavi of Rs. 15,73,36,299/- to appellant. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

3. Your appellant also reserves its right to submit details in connection with the aforesaid additions / disallowances as fresh evidence as per Rule 46A of the I.T. Rules, 1962 at the time of hearing of this appeal.

4. Your appellant craves liberty to add, to alter, to modify, to amend or to withdraw / delete any of the grounds of appeal at any time, on or before the hearing of appeal."

63. We observe that Amrutbhai Babaldas Patel is the maternal uncle and co-owner in the lands sold by Alap S. Patel at Godhavi, for which we have given detailed observations in the preceding part of the order. Accordingly, the Department's appeal in IT(SS)A Nos. 159 & 160/Ahd/2024 are restored to the file of Ld. CIT(A) for de-novo consideration and thus, allowed for statistical purposes and assessee's cross objections in C.O. Nos. 45 & 46/Ahd/2024 are being dismissed as not pressed.

Now we shall deal with cases in which proceedings under Section 153C of the Act were initiated. These are Department's appeal in IT(SS)A No. 157/Ahd/2024 in the case of Mita Sanjay Sheth (sister of Alap Patel and co-owner in Godhavi Land) for A.Y. 2019-20 and assessee's Cross Objection in C.O. No. 55/Ahd/2024, Department's appeal in IT(SS)A No. 158/Ahd/2024 and assessee's Cross Objection in C.O. No. 56/Ahd/2024 for A.Y. 2020-21.

64. The Department has raised the following grounds of appeal:

IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 62- IT(SS)A No. 157/Ahd/2024 (A.Y. 2019-20) "1. The Ld. CIT(A) has erred in deleting the addition of Rs. 3,55,69,687/- made by the Assessing Officer u/s. 69A of the Income Tax Act on account of on-money received by the assessee towards his share in the non-agricultural land at Godhavi sold to the builder group.

2. The Ld. CIT(A) has erred in deleting the addition ignoring the incriminating documents found during the course of search at the premise of one of co-owners/sellers and written in his own handwriting, not appreciating the detailed analysis made by the A.O. in the assessment order.

3. The Ld. CIT(A) has erred by deleting the addition by relying on his own decision in the case of Smt. Sonal Rakesh Khandwala who was a purchaser in a different transaction ignoring that any argument put forth by any purchaser/investor will be self-serving and the incriminating evidences found and found and seized in one of the sellers premise cannot be ignored.

4. The Revenue craves leave to add/alter/amend and/or substitute any or all of the grounds of appeal."

IT(SS)A No. 158/Ahd/2024 (A.Y. 2020-21) "1. The Ld. CIT(A) has erred in deleting the addition of Rs. 15,73,36,562/- made by the Assessing Officer u/s. 69A of the Income Tax Act on account of on-money received by the assessee towards his share in the non-agricultural land at Godhavi sold to the builder group.

2. The Ld. CIT(A) has erred in deleting the addition ignoring the incriminating documents found during the course of search at the premise of one of co-owners/sellers and written in his own handwriting, not appreciating the detailed analysis made by the A.O. in the assessment order.

3. The Ld. CIT(A) has erred by deleting the addition by relying on his own decision in the case of Smt. Sonal Rakesh Khandwala who was a purchaser in a different transaction ignoring that any argument put forth by any purchaser/investor will be self-serving and the incriminating evidences found and found and seized in one of the sellers premise cannot be ignored.

4. The Revenue craves leave to add/alter/amend and/or substitute any or all of the grounds of appeal."

65. The assessee has raised the following grounds of appeal in Cross Objection:

IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 63- C.O. No. 55/Ahd/2024 (A.Y. 2019-20) "1. The Assessing Officer (AO has not complied with the provisions of Sec. 153D of the Act. AO passed Assessment Order

without obtaining valid approval u/s. 153D of the Income Tax Act. The approval granted u/s. 153D should be after application of mind and not mechanically. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

2. The Assessing Officer (AO) had not made any independent inquiry u/s 133(6) or by issuing summon u/s 131 of the Act from the purchaser with respect to alleged on-

money paid for purchase of land at Godhavi of Rs. 3,55,69,687/- to appellant. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

3. Your appellant also reserves its right to submit details in connection with the aforesaid additions / disallowances as fresh evidence as per Rule 46A of the I.T. Rules, 1962 at the time of hearing of this appeal.

4. Your appellant craves liberty to add, to alter, to modify, to amend or to withdraw / delete any of the grounds of appeal at any time, on or before the hearing of appeal."

C.O. No. 56/Ahd/2024 (A.Y. 2020-21) "1. The Assessing Officer (AO) has not complied with the provisions of Sec. 153D of the Act. AO passed Assessment Order without obtaining valid approval u/s. 153D of the Income Tax Act. The approval granted u/s. 153D should be after application of mind and not mechanically. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

2. The Assessing Officer (AO) had not made any independent inquiry u/s 133(6) or by issuing summon u/s 131 of the Act from the purchaser with respect to alleged on- money paid for purchase of land at Godhavi of Rs. 15,73,36,299/- to appellant. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

3. Your appellant also reserves its right to submit details in connection with the aforesaid additions / disallowances as fresh evidence as per Rule 46A of the I.T. Rules, 1962 at the time of hearing of this appeal.

4. Your appellant craves liberty to add, to alter, to modify, to amend or to withdraw / delete any of the grounds of appeal at any time, on or before the hearing of appeal."

IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 64- Next batch of cases related to Nima Somabhai Patel (sister and co-owner in Godhavi Land) with respect to A.Y. 2019-20 and 2020-21 (Department's appeal in IT(SS)A Nos. 171&172/Ahd/2024 and assessee's Cross Objection in C.O. No. 51&52/Ahd/2024)

66. The Department has raised the following grounds of appeal:

IT(SS)A No. 171/Ahd/2024 (A.Y. 2019-20) "1) The Ld. CIT(A) has erred in deleting the addition of Rs.3,55,69,687/- made by the Assessing Officer u/ s.69A of the Income Tax Act on account of on-money received by the assessee towards his share in the non-agricultural land at Godhau sold. to the builder group

2) The Ld. CIT(A) has erred in deleting the addition ignoring the incriminating documents found during the course of search at the premise of one of co-owners/ sellers and written in his own handwriting, not appreciating the detailed analysis made by the A.O. in the assessment order.

3) The Ld. CIT(A) has erred by deleting the addition by relying on his own decision in the case of Smt. Sonal Rakesh Khandwala who was a purchaser in a different transaction ignoring that any argument put forth by any purchaser/investor will be self-serving and the incriminating evidences found and found and seized. in one of the sellers premise cannot be ignored.

4) The Revenue craves leave to add/ alter/ armed and/ or substitute any or all of the grounds of appeal."

IT(SS)A No. 172/Ahd/2024 (A.Y. 2020-21) "1) The Ld. CIT(A) has erred in deleting the addition of Rs.15,73,36,562/- made by the Assessing Officer u/ s.69A of the Income Tax Act on account of on-money received by the assessee towards his share in the non-agricultural land at Godhau sold. to the builder group

2) The Ld. CIT(A) has erred in deleting the addition ignoring the incriminating documents found during the course of search at the premise of one of co-owners/ sellers and written in his own handwriting, not appreciating the detailed analysis made by the A.O. in the assessment order.

3) The Ld. CIT(A) has erred by deleting the addition by relying on his own decision in the case of Smt. Sonal Rakesh Khandwala who was a purchaser in a different transaction ignoring that any argument put forth by any purchaser/investor will be self-serving and the incriminating evidences found and found and seized. in one of the sellers premise cannot be ignored.

IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

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4) The Revenue craves leave to add/ alter/ armed and/ or substitute any or all of the grounds of appeal."

67. The assessee has raised the grounds in the Cross Objection:

C.O. No. 51/Ahd/2024 (A.Y. 2019-20) "1. The Assessing Officer (AO has not complied with the provisions of Sec. 153D of the Act. AO passed Assessment Order without

obtaining valid approval u/s. 153D of the Income Tax Act. The approval granted u/s. 153D should be after application of mind and not mechanically. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

2. The Assessing Officer (AO) had not made any independent inquiry u/s 133(6) or by issuing summon u/s 131 of the Act from the purchaser with respect to alleged on-

money paid for purchase of land at Godhavi of Rs. 3,55,69,687/- to appellant. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

3. Your appellant also reserves its right to submit details in connection with the aforesaid additions / disallowances as fresh evidence as per Rule 46A of the I.T. Rules, 1962 at the time of hearing of this appeal.

4. Your appellant craves liberty to add, to alter, to modify, to amend or to withdraw / delete any of the grounds of appeal at any time, on or before the hearing of appeal."

C.O. No. 52/Ahd/2024 (A.Y. 2020-21) "1. The Assessing Officer (AO) has not complied with the provisions of Sec. 153D of the Act. AO passed Assessment Order without obtaining valid approval u/s. 153D of the Income Tax Act. The approval granted u/s. 153D should be after application of mind and not mechanically. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

2. The Assessing Officer (AO) had not made any independent inquiry u/s 133(6) or by issuing summon u/s 131 of the Act from the purchaser with respect to alleged on- money paid for purchase of land at Godhavi of Rs. 15,73,36,299/- to appellant. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

3. Your appellant also reserves its right to submit details in connection with the aforesaid additions / disallowances as fresh evidence as per Rule 46A of the I.T. Rules, 1962 at the time of hearing of this appeal.

4. Your appellant craves liberty to add, to alter, to modify, to amend or to withdraw / delete any of the grounds of appeal at any time, on or before the hearing of appeal."

IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 66- The next cases involved Gordhanbhai Babaldas Patel for A.Ys. 2019-20 (IT(SS)A No. 173/Ahd/2024) and (C.O. No. 53/Ahd/2024)

68. The Department has raised the following grounds of appeal:

IT(SS)A No. 173/Ahd/2024 (A.Y. 2019-20) "1) The Ld. CIT(A) has erred in deleting the addition of Rs. 16,26,33,479/- made by the Assessing Officer u/s.69A of the Income Tax Act on account of on-money received by the assessee towards his share in the non-agricultural land at Godhavi sold to the builder group.

2) The Ld. CIT(A) has erred in deleting the addition ignoring the incriminating documents found during the course of search at the premise of one of co-owners/ sellers and written in his own handwriting, not appreciating the detailed analysis made by the A.O. in the assessment order.

3) The Ld. CIT(A) has erred by deleting the addition by relying on his own decision in the case of Smt. Sonal Rakesh Khandwala who was a purchaser in a different transaction ignoring that any argument put forth by any purchaser/investor will be self-serving and the incriminating evidences found and found and seized in one of the sellers premise cannot be ignored.

4) The Revenue craves leave to add/ alter/ amend and/ or substitute any or all of the grounds of appeal."

69. The assessee has raised the grounds of appeal in Cross Objection:

C.O. No. 53/Ahd/2024 (A.Y. 2019-20) "1. The Assessing Officer (AO) has not complied with the provisions of Sec. 153D of the Act. AO passed Assessment Order without obtaining valid approval u/s. 153D of the Income Tax Act. The approval granted u/s. 153D should be after application of mind and not mechanically. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

2. The Assessing Officer (AO) had not made any independent inquiry u/s 133(6) or by issuing summon u/s 131 of the Act from the purchaser with respect to alleged on-

money paid for purchase of land at Godhavi of Rs. 16,26,33,479/- to appellant. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

3. Your appellant also reserves its right to submit details in connection with the aforesaid additions / disallowances as fresh evidence as per Rule 46A of the I.T. Rules, 1962 at the time of hearing of this appeal.

IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

4. Your appellant craves liberty to add, to alter, to modify, to amend or to withdraw / delete any of the grounds of appeal at any time, on or before the hearing of appeal."

Further, in this batch we should deal with the case of Amathabhai Bababhai Patel for A.Y. 2020-21 (Department's Appeal in IT(SS)A No. 161/Ahd/2024

70. The Department has raised the following grounds of appeal:

IT(SS)A No. 161/Ahd/2024 (A.Y. 2020-21) "1) The Ld. CIT(A) has erred in deleting the addition of Rs.34,57,500/- made by the Assessing Officer u/ s.69A of the Income Tax Act on account of on-money received"

by the assessee towards his share in the non-agricultural land at Godhavi"

2) The Ld. CIT(A) has erred in deleting the addition ignoring the incriminating documents found during the course of search at the premise of one of co-owners/ sellers and. written in his own handwriting, not appreciating the detailed analysis made by the A.O. in /he assessment order.

3) The Ld. CIT(A) has erred by deleting the addition by relying on his own decision in the case of Smt. Sonal Rakesh Khandwala who was a purchaser in a different transaction ignoring that any argument put forth by any purchaser/investor will be self-serving and the incriminating evidences found and found and seized in one of the sellers premise cannot be ignored.

4) The Ld. CIT(A) has erred in deleting the addition of Rs. 7,45,00,000/- made u/s.69A of the Act simply by relying on assessee's submission during appellate proceedings, without directing any further enquiry ignoring the clear findings made in the assessment order that assessee has failed to establish the source of these credits in the bank account.

5) The Revenue craves leave to add/ alter/ amend and/ or substitute any or all of the grounds of appeal.""

71. In this group of cases with respect to IT(SS)A Nos. 157&158/Ahd/2024 and C.O. Nos. 55&56/Ahd/2024, IT(SS)A Nos. 171&172/Ahd/2024 and C.O. Nos. 51&52/Ahd/2024, IT(SS)A No. 173/Ahd/2024 and C.O. No. 53/Ahd/2024 and IT(SS)A No. 161/Ahd/2024 for A.Ys. 2019-20 & 2020-21 the facts and issues for consideration are IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 68- identical to the earlier set of cases discussed in the preceding paragraphs. The only exception is that since the cases pertained to third/related party, proceedings were initiated under Section 153C of the Act.

72. In these Group of cases, the ld. counsel for the assessee raised a legal objection challenging the validity of the proceedings initiated under section 153C of the Income-tax Act, 1961, contending that the impugned assessment orders were barred by limitation prescribed under section 153B of the Act.

It was submitted that the search action in the case of Popular Group was conducted in October 2020 and, therefore, in terms of clause (ii) of the third proviso to section 153B(1), the assessments under section 153C were required to be completed within twelve months from the end of the financial year in which the search was conducted, i.e., on or before 31.03.2022. According to the assessee, any assessment order passed after the said date was void ab initio being time barred.

73. The ld. counsel further submitted that in the present case the Assessing Officer of the searched person as well as the Assessing Officer having jurisdiction over the "other person" against whom proceedings under section 153C were initiated was one and the same officer. Therefore, there was no occasion or legal requirement for "handing over" of seized material by one Assessing Officer to another Assessing Officer as contemplated under section 153C of the Act. It was argued that once the Assessing Officer for both entities was common, the extended period of limitation contemplated under the second limb of clause (ii) of the third proviso to section 153B(1), which is linked to the date of handing over of seized documents to the Assessing Officer of the other person, could not be invoked by the Revenue.

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74. The ld. counsel contended that in such a situation only the first limb of clause (ii) of the third proviso to section 153B(1) would govern the limitation period, namely, twelve months from the end of the financial year in which the search was executed. Consequently, both the assessments of the searched person as well as the consequential proceedings initiated under section 153C were required to be completed on or before 31.03.2022.

75. In support of the aforesaid proposition, reliance was placed upon the judgment of the Bombay High Court in Vijay Bihari Kandhari v. Assistant Commissioner of Income-tax [2025] 181 taxmann.com 21 (Bombay), wherein the Hon'ble High Court, after considering the decision of the Supreme Court of India in Super Malls (P.) Ltd. v. Principal Commissioner of Income-tax, held that where the Assessing Officer of the searched person and the Assessing Officer of the other person are the same, there is no question of transmission or handing over of seized documents under section 153C and, therefore, the extended limitation available under the second limb of clause (ii) of the third proviso to section 153B(1) would not apply.

76. The ld. counsel particularly relied upon the observations of the Hon'ble Bombay High Court wherein it was held that the additional period contemplated under the second limb of section 153B(1) becomes available only where the Assessing Officer of the searched person transfers the seized material to another Assessing Officer having jurisdiction over the other person. It was argued that the Court categorically rejected the Revenue's contention that transfer of records from the Investigation Wing to the Assessing Officer would extend the limitation period.

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77. The Id. counsel further submitted that acceptance of the Revenue's interpretation would render the first limb of clause (ii) of the third proviso to section 153B(1) completely redundant, since in every case the Department could seek to compute limitation from the date on which the Investigation Wing forwarded the records to the Assessing Officer. Such an interpretation, according to the assessee, was expressly disapproved by the Hon'ble Bombay High Court in Vijay Bihari Kandhari (supra).

78. Accordingly, it was argued that since the search in the Popular Group cases was conducted in October 2020, the limitation prescribed under section 153B expired on 31.03.2022 and, therefore, all orders passed thereafter in the section 153C proceedings were liable to be quashed as barred by limitation.

79. We have carefully considered the rival submissions and perused the material available on record. The principal legal objection raised by the assessee is that the assessments framed under section 153C of the Act are barred by limitation prescribed under section 153B of the Act on the ground that the Assessing Officer of the searched person as well as the "other person"

was one and the same and, therefore, there was no requirement of handing over of seized material as contemplated under section 153C of the Act. According to the assessee, since the search in Popular Group was conducted in October 2020, the limitation for completion of assessments expired on 31.03.2022 and consequently the impugned orders passed thereafter are liable to be quashed as time barred. In support of the aforesaid contention, reliance has been placed upon the judgment of the Bombay High Court in Vijay Bihari Kandhari v. Assistant Commissioner of Income-tax read with the decision of IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 71- the Supreme Court of India in Super Malls (P.) Ltd. v. Principal Commissioner of Income-tax.

80. However, after thoughtful consideration of the statutory framework contained under sections 153C and 153B of the Act, we are unable to persuade ourselves to accept the aforesaid contention advanced on behalf of the assessee. In our considered opinion, the entire argument of the assessee proceeds only on the aspect relating to "handing over" of documents while completely overlooking the foundational statutory requirement embedded in section 153C of the Act, namely, the mandatory "recording of satisfaction"

by the Assessing Officer before assumption of jurisdiction over the other person.

81. Section 153C(1) of the Act specifically provides that where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing or any books of account or documents seized or requisitioned "pertains or pertain to" or any information contained therein

"relates to" a person other than the searched person, then such material shall be handed over to the Assessing Officer having jurisdiction over such other person and thereafter proceedings under section 153C of the Act may be initiated. Thus, the jurisdictional trigger for initiation of proceedings under section 153C of the Act is not merely the physical act of transfer of records but the substantive statutory satisfaction arrived at by the Assessing Officer that the seized material has bearing on the determination of income of the third party.

82. In our considered view, the requirement of "recording satisfaction" is a substantive jurisdictional condition precedent and not a mere procedural IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 72- formality. Unless and until such satisfaction is recorded, proceedings against the other person cannot legally be initiated. Therefore, even in a situation where the Assessing Officer of the searched person and the other person is common, the Assessing Officer is still statutorily required to examine the seized material, identify documents which pertain to or relate to the third party, analyse whether such material has bearing on determination of income of such person and thereafter consciously record satisfaction before invoking jurisdiction under section 153C of the Act.

83. The contention of the assessee that limitation must necessarily commence from the date of search itself merely because the Assessing Officer is common overlooks the scheme of section 153C altogether. Proceedings under section 153C are not automatic upon conduct of search. They arise only after the Assessing Officer records satisfaction regarding the incriminating nature and relevance of material qua the third party. In large group search matters involving multiple entities, voluminous records and interlinked financial transactions, such examination and satisfaction is a detailed and time-consuming statutory exercise which can reasonably be undertaken only after substantial appraisal and examination of seized material relating to the searched group.

84. In this regard, we find considerable merit in the submissions advanced by the Id. Departmental Representative that although physical transfer of documents may not be necessary where the Assessing Officer is common, the independent statutory exercise contemplated under section 153C of the Act nevertheless survives. The absence of requirement of physical transmission of records cannot obliterate the mandatory jurisdictional requirement of IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 73- recording satisfaction. The Hon'ble Supreme Court in CIT v. Calcutta Knitwears [2014] 43 taxmann.com 446 has categorically held that recording of satisfaction is a sine qua non for initiation of proceedings against a third party under provisions analogous to section 153C of the Act and such satisfaction must be prepared before proceedings against the other person are initiated. Similarly, in Super Malls (P.) Ltd. v. Principal Commissioner of Income-tax 115 taxmann.com 105 (SC), the Hon'ble Supreme Court reiterated that even where the Assessing Officer of the searched person and the other person is the same, recording of satisfaction remains mandatory though separate transmission of documents may not be required.

85. Therefore, the reliance placed by the assessee on the aforesaid judgments is, in our view, misplaced. The ratio laid down therein merely dispenses with the mechanical requirement of physical transfer of records where the Assessing Officer is common. To accept the interpretation canvassed by the assessee would amount to reading down and virtually nullifying the essential jurisdictional requirement specifically enacted by Parliament under section 153C of the Act.

86. We further note that the assessee has not demonstrated before us that the impugned assessments were completed beyond the limitation period reckoned after recording of satisfaction under section 153C of the Act. The challenge is founded entirely on the premise that limitation must automatically commence from the date of search irrespective of the stage at which satisfaction under section 153C was recorded. In our considered opinion, such interpretation neither flows from the plain language of section 153C nor from the scheme of sections 153C and 153B read harmoniously.

IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

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87. It is a settled principle of interpretation that where the language of the Statute is plain and unambiguous, effect must be given to the words employed by the Legislature. Section 153C clearly predicates initiation of proceedings upon recording of satisfaction that seized material pertains to or relates to a third party and has bearing on determination of income of such person. Therefore, the Statute itself recognizes a separate jurisdictional stage before proceedings under section 153C can commence. Once the language employed by Parliament is clear and unambiguous, there is no necessity to adopt an interpretation which would render the mandatory requirement of recording satisfaction otiose.

88. In view of the aforesaid detailed discussion, we are unable to accept the contention advanced by the assessee that the impugned proceedings under section 153C are barred by limitation merely because the Assessing Officer of the searched person and the other person happened to be the same officer.

89. The legal objection raised by the assessee is accordingly dismissed.

90. Since the relevant contention of the Ld. Counsel for the assessee stands dismissed, all the appeals filed by the Department are hereby restored to the file of Ld. CIT(A) for de-novo consideration in light of our discussion in the preceding paragraphs and all the Cross Objections filed by the assessee are dismissed as not pressed.

Now we shall discuss Department's appeals in the case of ACIT vs. Sonal Rajesh Khandwala for A.Y. 2019-20 and 2020-21 in IT(SS)A Nos. 179&180/Ahd/2024 IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

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91. The Department has raised the following grounds of appeal:

IT(SS)A No. 179/Ahd/2024 A.Y. 2019-20 "1) The Ld.CIT(A) has erred in deleting the addition of Rs,77,28,11,249/- made by the Assessing Officer u/s.69 of the Act on account of the assessee's share in on money paid for purchase of non-agricultural land at Godhavi by Builder Group, ignoring the detailed analysis made by the A,O. in the assessment order.

2) The Ld,CIT(A) has erred in deleting the addition by ignoring the incriminating documents found during the course of search u/s 132 of the Act at the premise of Shri Alap Somabhai Patel written in his own hand writing, who was one of the sellers of the land and the evidence showed on-money transaction in this sale.

3) The Ld.CIT(A) has erred in deleting the addition by giving emphasis that the seized documents did not contain name of the assessee or other purchaser's', not appreciating that the incriminating document seized was from the other premise of one of the sellers and the same was in his own handwriting and it is not the case that the assessee and other purchasers had not purchased the property in question.

4) The Ld.CIT(A) has erred in giving emphasis on the searches conducted in the other purchaser's' premises that nothing adverse was recovered ignoring basic principles of logic.

5) The Revenue craves leave to add/alter/armed and/or substitute any or all of the grounds of appeal."

IT(SS)A No. 180/Ahd/2024 A.Y. 2019-20 "1) The Ld.CIT(A) has erred in deleting the addition of Rs. 22,19,39,998/- made by the Assessing Officer u/s.69 of the Act on account of the assessee's share in on money paid for purchase of non-agricultural land at Godhavi by Builder Group, ignoring the detailed analysis made by the A,O. in the assessment order.

2) The Ld,CIT(A) has erred in deleting the addition by ignoring the incriminating documents found during the course of search u/s.132 of the Act at the premise of Shri Alap Somabhai Patel written in his own hand writing, who was one of the sellers of the land and the evidence showed on-money transaction in this sale.

3) The Ld.CIT(A) has erred in deleting the addition by giving emphasis that the seized documents did not contain name of the assessee or other purchaser's', not appreciating that the incriminating document seized was from the other premise of one of the sellers and the same was in his own handwriting and it is not the case that the assessee and other purchasers had not purchased the property in question.

4) The Ld.CIT(A) has erred in giving emphasis on the searches conducted in the other purchaser's' premises that nothing adverse was recovered ignoring basic principles of logic.

IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

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5) The Revenue craves leave to add/alter/armed and/or substitute any or all of the grounds of appeal."

92. The relation between the instant assessee and the lead matter in the case of Alap S. Patel is that Sonal Rajesh Khandwala in the instant case is the purchaser of the impugned properties in question. In the instant appeals, the Ld. CIT(A) has given relief to the assessee on the ground that the loose materials seized from the premises of Shri Alap S. Patel nowhere contain the name of the assessee i.e. Sonal R. Kahndwala, signature of the assessee and the land survey number with respect to the property / land purchase by the assessee. Further, Ld. CIT(A) also gave relief to the assessee that in case of similar land purchases by other parties viz. Shri Jankhit Prajapati and the B. Safal Group there was no evidence to prove payment of on-money by other purchasers as well. More importantly, Ld. CIT(A) (at Page 46 of his order while giving relief to the assessee i.e. Sonal R. Khandwala) has observed that in the statement recorded by Shri Alap S. Patel under Section 132(4) of the Act, he has stated that such loose paper contains projection. The Ld. CIT(A) further observed that in such statement, Shri Alap S. Patel never admitted that figure noted in the seized material is for the area of land as assumed by the Assessing Officer.

93. Therefore, as noted above, the basis of granting relief to Shri Sonal R. Khandwala for the impugned assessment years is on the basis of statement of Shri Alap S. Patel the lead assessee in the instant appeals and the seller of the impugned lands in question. However, as noted by us, there are apparent errors in the above interpretation of Ld. CIT(A) with respect to the facts emanating in the case of Shri Alap S. Patel as pointed out in the preceding paragraphs of the order. This is the apparent misinterpretation of the facts IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 77- and contradiction go to the root of the matter and therefore, since the lead matter itself has been restored to the file of Ld. CIT(A) for de-novo consideration, accordingly, the instant appeals, on which the basis of relief hinges upon the findings in the case of Alap S. Patel has been restored to the file of Ld. CIT(A), then the present appeals in the case of Sonal R. Khandwala for A.Ys. 2019-20 and 2020-21 also deserve to be set-aside to Ld. CIT(A) for de-novo consideration.

94. Another important aspect pointed out by Ld. DR during the course of hearing is that in the case of Sonal R. Khandwala, the Assessing Officer has categorically noted that the assessee has not submitted any details / provided any reply / explanation during the course of assessment proceedings. Therefore, the Assessing Officer was constrained to complete the assessment on the basis of information available on record. Accordingly, for this reason as well, since the Tax Authorities were denied to the benefit of proper representation and submission of relevant details on the parts of the instant assessee, the matter deserved to be restored to the file of Ld. CIT(A) for de- novo consideration.

95. Accordingly, Department's appeals in ITA Nos. 179 & 180/Ahd/2024 for A.Y. 2019-20 and 2020-21 are allowed for statistical purposes.

Now we shall deal with assessee's appeal in IT(SS)A No. 108/Ahd/2024 for A.Y. 2021-22

96. The Assessee has raised the following grounds of appeal:

"1. Ground No.1: The Id. CIT(A) ought to have held the assessment order u/s. 153A is non-est and not in accordance with law and ought to have set aside the assessment. The order passed is bad-in-law, null, void and without jurisdiction.

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2. Ground No.2: The Assessing Officer (AO) had not complied with the provisions of Sec. 153D of the Act. AO passed Assessment Order without obtaining valid approval u/s.153D of the Income Tax Act. The approval granted u/s. 153D should be after application of mind and not mechanically. Therefore, it is prayed that the assessment order so passed is bad in law; hence, the same may kindly be quashed.

3. Ground No. 3 Jewellery of Rs.13,92,727 The Id. CIT(A) erred in confirming addition u/s 69 of the jewellery of Rs 13,92,727/- Part of seized jewellery belongs to appellant's wife, who received jewellery at the time of marriage and part jewellery belongs to appellant's sister residing in USA. The jewellery is explained and part of social customs and family status. Therefore, it is prayed that addition of jewellery may kindly be deleted.

4. Ground No. 4 Cash of Rs.27,98,170/-confirming addition u/s 69A of the cash of Rs. 27,98,170/- out of seized cash of Rs. 37,00,000/-. The cash is explained and part of pin-money of lady's members, gifts of children, agricultural income of family and part cash belongs to appellant's sister residing in USA. Therefore, it is prayed that addition of cash may kindly be deleted The Id. CIT(A) erred in

5. Ground: The appellant reserves its right to submit further details in connection with additions / disallowances made by AO as fresh evidence at the time of hearing of Appeal.

6. Ground: Your appellant craves liberty to add, to alter, to modify, to amend or to withdraw / delete any of the grounds of appeal at any time, on or before the hearing of appeal."

97. The brief facts of the case for this appeal are that a search and seizure action under section 132 of the Act was carried out in the case of the assessee on 08.10.2020 at his residential premises as well

as bank locker. The assessee filed his return of income on 09.02.2022 declaring total income of Rs.2,67,51,060/-. During the course of search proceedings, cash amounting to Rs.39,55,470/- from the residence and Rs.5,00,000/- from the locker was found, out of which cash aggregating to Rs.42,00,000/- was seized by the Investigation Wing. Further, jewellery valued at Rs.2,24,40,382/- was found from the residence and jewellery valued at Rs.1,25,65,577/- was found from locker No.1936-G maintained with Bank of India, Navrangpura Branch, Ahmedabad. Thus, total jewellery and silver articles valued at Rs.3,50,05,963/- comprising gold ornaments weighing 3717.160 IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 79- grams, gold weighing 977.150 grams and diamond jewellery weighing 211.29 carats were found during the course of search. The Assessing Officer examined the explanation furnished by the assessee regarding the source and ownership of jewellery found during search proceedings. The assessee explained that substantial jewellery belonged to family members and represented ancestral jewellery, streedhan and gifts received by the assessee's wife on the occasion of marriage and other family functions. However, according to the Assessing Officer, the assessee failed to substantiate the source of certain jewellery with supporting documentary evidence such as bills, confirmations or contemporaneous evidence. Consequently, after considering the explanation furnished by the assessee and granting relief in respect of jewellery accepted as explained, the Assessing Officer treated jewellery valued at Rs.13,92,727/- corresponding to 182.010 grams as unexplained investment under section 69 of the Act and made addition thereof while framing assessment under section 143(3) read with section 153B(1)(b) vide order dated 31.03.2022. The Assessing Officer also made separate addition of Rs.27,98,170/- on account of unexplained cash found during search proceedings.

98. In appeal, the ld. CIT(Appeals) examined the findings recorded by the Assessing Officer as well as the written submissions furnished by the assessee. The ld. CIT(Appeals), while dealing with the addition relating to jewellery, observed that the year under consideration was a search year/abated assessment year since search was conducted on 08.10.2020 and return of income for A.Y. 2021-22 was filed subsequently on 09.02.2022. Therefore, according to the ld. CIT(Appeals), the contention of the assessee that no addition could be made in absence of IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 80- incriminating material was not tenable, as the embargo relating to incriminating material applies only in the case of unabated assessments and not in the case of abated/search assessments. The ld. CIT(Appeals) further observed that the Assessing Officer had already considered the claim of streedhan and family ownership of jewellery in light of CBDT Instruction No.1916 dated 11.05.1994 while framing the assessment. It was noted that out of total jewellery valued at Rs.3,42,96,768/-, the Assessing Officer had treated only jewellery valued at Rs.13,92,727/- as unexplained after granting due credit for permissible jewellery held by family members. The ld. CIT(Appeals) recorded a finding that the Assessing Officer had made addition only in respect of excess jewellery not falling within the permissible limits of streedhan and which remained unsupported by documentary evidences. The ld. CIT(Appeals) further observed that despite sufficient opportunity, the assessee failed to furnish purchase bills, source details or satisfactory documentary evidence either during assessment proceedings or appellate proceedings in support of the impugned jewellery. Accordingly,

the ld. CIT(Appeals) upheld the addition of Rs.13,92,727/- made on account of unexplained jewellery and dismissed grounds of appeal nos.1 and 2 of the assessee. The addition on account of unexplained cash was also confirmed by the ld. CIT(Appeals) on the ground that the assessee failed to substantiate the explanation regarding household savings, pin money, agricultural income and cash belonging to family members with supporting evidence.

99. The assessee is in appeal before us against the order passed by the ld. CIT(Appeals) dismissing the appeal of the assessee.

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100. Before us, the ld. counsel for the assessee reiterated that the addition of Rs.13,92,727/- on account of jewellery was unjustified and contrary to the material available on record. It was submitted that the assessee had furnished a detailed explanation before the Assessing Officer vide letter dated 21.03.2022 explaining the source and ownership of jewellery found during search. Particular emphasis was placed on the affidavit dated 23.03.2022 of Smt. Hiral Alap Patel, wife of the assessee, wherein it was specifically affirmed that the jewellery in question represented ornaments and jewellery received by her from relatives on the occasion of marriage and other family functions in accordance with prevailing customs and traditions of Hindu society.

101. The ld. counsel further submitted that the jewellery weighing 182.010 grams represented streedhan received by the assessee's wife from close relatives such as sisters, maternal uncles and cousins at the time of marriage solemnized on 14.02.2009 and on various ceremonial occasions thereafter. Detailed particulars of each item of jewellery along with names of relatives, relationship, weight of jewellery and corresponding references from the seized annexures were furnished before the authorities below. It was contended that the jewellery was received as customary gifts in a well-established Hindu family and the same was fully consistent with social customs and family status. The ld. counsel further relied upon CBDT Instruction No.1916 dated 11.05.1994 and submitted that jewellery found during search to the extent of prescribed limits should ordinarily be treated as explained, particularly in respect of married ladies. It was submitted that the authorities below failed to appreciate the concept of streedhan in proper perspective and mechanically treated jewellery valued at Rs.13,92,727/- as IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 82- unexplained despite the fact that the assessee had duly explained the source and nature of the jewellery. The ld. counsel accordingly submitted that the addition sustained by the ld. CIT(Appeals) deserved to be deleted.

102. We have heard the rival contentions and perused the material on record.

103. We have heard the rival submissions and perused the material available on record. We have also carefully considered the findings recorded by the Assessing Officer as well as the ld.

CIT(Appeals) in the light of the explanation furnished by the assessee regarding the source and ownership of jewellery found during the course of search proceedings. From the records, it is evident that substantial quantity of jewellery comprising gold ornaments, gold and diamond jewellery aggregating to more than 4000 grams was found during the course of search action carried out at the residential premises and locker of the assessee and his family members. The assessee has consistently explained that the jewellery represented ancestral holdings, streedhan belonging to female family members and gifts received from close relatives on the occasion of marriage and various family functions over a long period of time.

104. We find that the Assessing Officer has examined the explanation furnished by the assessee in considerable detail and has also granted substantial relief by accepting major portion of the jewellery as explained in light of CBDT Instruction No.1916 dated 11.05.1994. The ld. CIT(Appeals), while affirming the addition, has also recorded a categorical finding that the Assessing Officer treated only jewellery valued at Rs.13,92,727/- corresponding to 182.010 grams as unexplained after granting due benefit in IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 83- respect of permissible jewellery and jewellery accepted as streedhan. Therefore, in our considered view, both the lower authorities have adopted a reasonable and balanced approach while appreciating the explanation furnished by the assessee and cannot be said to have acted arbitrarily while sustaining the impugned addition.

105. At the same time, we also find merit in the contention of the assessee that the jewellery found during search may require deeper examination keeping in view the family background, social customs and long-standing possession claimed by the assessee and his family members. It is observed from the material placed before us that the assessee has relied upon affidavit of Smt. Hiral Alap Patel and details of jewellery allegedly received from relatives at the time of marriage and on ceremonial occasions. However, it is also noticed that substantial quantity of jewellery in the form of gold ornaments and diamonds was found during search and the assessee has not placed sufficient contemporaneous documentary evidence on record to conclusively demonstrate acquisition and possession of such jewellery from disclosed sources over the years.

106. We further note from the material available on record that as per the details pertaining to earlier years, the assessee had declared around 618 grams of gold and ornaments in or around the year 2009, whereas during the year under consideration the jewellery found during search had substantially increased to more than 4000 grams. In our considered opinion, in the interest of substantial justice, the assessee deserves to be afforded one more opportunity to substantiate his explanation by producing relevant documentary evidences such as declaration before Wealth Tax Authorities, IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 84- declarations made before statutory authorities, evidence regarding acquisition of jewellery over the years, family declarations, purchase invoices, inheritance details or any other contemporaneous material demonstrating that the assessee and his family members were in possession of such gold ornaments and diamond jewellery from explained and disclosed sources.

107. Accordingly, considering the totality of facts and circumstances of the case, we deem it appropriate to restore the issue relating to addition of Rs.13,92,727/- on account of unexplained jewellery to the file of the Assessing Officer for fresh adjudication. The Assessing Officer shall afford adequate opportunity to the assessee to produce supporting evidences including wealth tax records, declarations made before statutory authorities, evidence of disclosed withdrawals/investments, inheritance records and any other supporting documentary material to demonstrate possession and acquisition of gold ornaments and diamond jewellery from explained sources in earlier years. The Assessing Officer shall thereafter examine the evidences so furnished and decide the issue afresh in accordance with law after granting reasonable opportunity of hearing to the assessee.

108. Accordingly, the grounds raised by the assessee on this issue are allowed for statistical purposes.

Now we shall deal with assessee's appeal in IT(SS)A No. 106/Ahd/2024 for A.Y. 2019-20

109. The assessee has raised the following grounds of appeal:

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"1. Ground No. 1: The ld. CIT(A) ought to have held the assessment order u/s 153C is non-est and not in accordance with law and ought to have set aside the assessment. The order passed is bad-in-law, null, void and without jurisdiction.

2. Ground No.2 The Assessing Officer (AO) had passing assessment order after time limit provided in the Proviso to Section 153B for assessment u/s 153C of the Act. Therefore, it is prayed that the assessment order so passed is bad in law, hence, the same may kindly be quashed.

3. Ground No. 3 The Assessing Officer (AO) has not complied with the provisions of Sec. 153D of the Act. AO passed Assessment Order without obtaining valid approval u/s. 153D of the Income Tax Act. The approval granted u/s. 153D is mechanical and without any application of mind; hence, is not a valid approval. Therefore, it is prayed that the assessment order so passed is bad in law; hence, the same may kindly be quashed.

4. Ground No. 4 Disallowance of deduction claimed u/s 54F of Rs. 30,58,301/- The ld. CIT(A) erred in confirming addition by disallowing claimed u/s.54F of Rs.30,58,301/-. The appellant has purchased plot for constructing bungalow in residential scheme "Gala Goldcrest" and claimed exemption u/s 54F of Rs. 30,58,301/-, to the extent of capital gain. Therefore, it is prayed that deduction/s 54F may kindly be granted.

5. Ground: The appellant reserves its right to submit further details in connection with additions / disallowances made by AO as fresh evidence at the time of hearing of Appeal.

6. Ground: Your appellant craves liberty to add, to alter, to modify, to amend or to withdraw / delete any of the grounds of appeal at any time, on or before the hearing of appeal."

110. In the instant appeal, while grounds No. 1, 2 have been dealt with in the earlier part of the order and the ground No. 3 was never argued / pressed before us (although in view of decision of Jurisdictional ITAT in the case of Smt. Neelu Sanjay Gupta vs. DCIT in IT(SS)A Nos. 147 & 148/Ahd/2019 for A.Ys. 2005-06 and 2006-07, this issue is squarely covered against the assessee and therefore, we shall deal with ground No. 4 related to alternate claim of the assessee for deduction under Section 54F of the Act. In the instant ground, the assessee has taken an alternate contention that claim of Section 54F of the Act of Rs. 30,58,301/- may be allowed to the assessee since it had purchased plot for constructing Bungalow in residential scheme IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

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"Godhavi Goldcrest". However, on going through the records, it is observed that while the assessee has pressed for an alternate claim for deduction under Section 54F of the Act, however, the assessee has not deposited the aforesaid amount in "capital gains account" as mandated under law and therefore, per se, the claim of the assessee is not admissible. However, as noted above, since we have restored the main matter relating to addition towards sale of Godhavi land to the file of Ld. CIT(A) for de-novo consideration, in the interest of justice, the instant matter may also be restored to the file of Ld. CIT(A) and in case required, the assessee would be at liberty to produce necessary supporting documents in support of his case before Ld. CIT(A).

111. In the result, the appeal of the assessee is allowed for statistical purposes in ITA No. 106/Ahd/2024 for A.Y. 2019-20.

Now we shall deal with ITA No. 174/Ahd/2024 which is Department's Appeal for A.Y. 2020-21 and C.O. No. 54/Ahd/2024 for A.Y. 2020-21 in the case of Gordhanbhai Babaldas Patel

112. The Department has raised the following grounds of appeal:

"1) The Ld.CIT(A) has erred in deleting the addition of Rs.23,95,84,582/- made by the Assessing Officer u/ s.69A of the Income Tax Act on account of on-money received by the assessee towards his share in the non-agricultural land at Godhavi sold to the builder group.

2) The Ld.CIT(A) has erred in deleting the addition ignoring the incriminating documents found during the course of search at the premise of one of co-owners/sellers and written in his own handwriting, not appreciating the detailed analysis made by the A.O. in the assessment order.

3) The Ld.CIT(A) has erred by deleting the addition by relying on his own decision in the case of Smt. Sonal Rakesh Khandwala who was a purchaser in a different transaction ignoring that any argument put forth by any purchaser/investor will be self-serving and the incriminating evidences found and found and seized in one of the sellers premise cannot be ignored.

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4) The Ld.CIT(A) has erred in deleting the addition of Rs. 7,37,46,000/- made u/s. 68 of the Income Tax Act on account of unexplained loans given to relatives ignoring the facts of the case that these transactions were transferred on account of sale of Godhavi Land and not as loan.

5) The Revenue craves leave to add/ alter/ armed and/ or substitute and or all of the grounds of appeal."

C.O. No. 54/Ahd/2024 (A.Y. 2020-21) "1. The Assessing Officer (AO has not complied with the provisions of Sec. 153D of the Act. AO passed Assessment Order without obtaining valid approval u/s. 153D of the Income Tax Act. The approval granted u/s. 153D should be after application of mind and not mechanically. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

2. The Assessing Officer (AO) had not made any independent inquiry u/s 133(6) or by issuing summon u/s 131 of the Act from the purchaser with respect to alleged on- money paid for purchase of land at Godhavi of Rs. 31,33,30,580/- to appellant. Therefore, the impugned assessment order so passed is bad in law and illegal, hence, the same is liable to be quashed.

3. Your appellant also reserves its right to submit details in connection with the aforesaid additions / disallowances as fresh evidence as per Rule 46A of the I.T. Rules, 1962 at the time of hearing of this appeal.

4. Your appellant craves liberty to add, to alter, to modify, to amend or to withdraw / delete any of the grounds of appeal at any time, on or before the hearing of appeal."

113. As noted in the earlier part of the order, Gordhanbhai Patel is the maternal uncle and going in the Godhavi land. The Department's appeal for A.Y. 2020-21, contains two issues. The first issue relates to on-money receipt by the assessee towards his share in the land at Godhavi sold to builder group. Since this issue has been restored to the file of Ld. CIT(A) on identical set of facts for A.Y.

2019-20 as well, ground No. 1 for A.Y. 2020-21 is also hereby restored to the file of Ld. CIT(A) for de-novo consideration.

The second issue deletion of addition of Rs. 7,3746,000/- under Section 68 of the Act on account of unexplained loans given to relatives.

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114. Before us, the Ld. DR submitted that the Ld. CIT(A) has passed the order on the erroneous understanding that these transactions were transferred on account of sale of Godhavi Inad and not as loan. Accordingly, Ld. DR submitted that since the Ld. CIT(A) has passed the order on an incorrect understanding of facts, the matter may be restored to the file of Ld. CIT(A) for de-novo consideration. In response, the Counsel for the assessee took a new argument before us that the said loans did not pertain to the impugned assessment year in the first instance and the said loans pertain to earlier years. The Counsel for the assessee submitted that the assessee is in a position to demonstrate / substantiate the aforesaid contention.

115. We have heard the rival contention and perused the material available on record.

116. In light of the above contention of both the parties before us, in the interest of justice, the impugned is also restored to the file of Ld. CIT(A) for de-novo consideration.

117. In the result, the appeal of the assessee is allowed for statistical purposes in IT(SS)A No. 174/Ahd/2024 for A.Y. 2020-21.

118. In the result, the Cross Objection of the assessee is dismissed as not pressed in light of our observations in preceding part of the order.

Now we shall deal with Department's appeal in the case of Chandubhai B. Patel in IT(SS)A No. 162/Ahd/2024 for A.Y. 2020-21

119. The Department has raised the following grounds of appeal:

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"1) The Ld.CIT(A) has erred in deleting the addition of Rs.8,28,83,333/- made by the Assessing Officer u/s.69A of the Income Tax Act on account of on-money received by the assessee towards his share in the non-agricultural land at Godhavi.

2) The Ld.CIT(A) has erred in deleting the addition ignoring the incriminating documents found during the course of search at the premise of one of co-owners/sellers and written in his own handwriting, not appreciating the detailed analysis made by the A.O. in the assessment order.

3) The Ld.CIT(A) has erred by deleting the addition by relying on his own decision in the case of Smt. Sonal Rakesh Khandwala who was a purchaser in a different transaction ignoring that any argument put forth by any purchaser/investor will be self-serving and the incriminating evidences found and found and seized. in one of the sellers premise cannot be ignored.

4) The Revenue craves leave to add/ alter/ armed and/ or substitute any or all of the grounds of appeal.""

120. It may be noted that Shri Chandubhai Babaldas Patel is the maternal uncle and co-owner in the said land. In the instant appeal, the Department has challenged the deletion of addition of Rs. 8,28,83,333/- made by the Assessing Officer under Section 69A of the Act on account of on-money receipt by the assessee towards his share in the non-agricultural land at Godhavi.

121. Since the lead case in the matter has been restored to the file of Ld. CIT(A) for de-novo consideration, and the instant assessee is also a co-owner in such land, this issue is also restored to the file of Ld. CIT(A) for de-novo consideration.

122. Accordingly, the appeal of the Department is allowed for statistical purposes in IT(SS)A No. 162/Ahd/2024.

Now we shall deal with assessee's appeal in IT(SS)A No. 107/Ahd/2024 for A.Y. 2021-22 IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

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123. The assessee has raised the following grounds of appeal:

"1. Ground No. 1: The ld. CIT(A) ought to have held the assessment order u/s 153A is non-est and not in accordance with law and ought to have set aside the assessment. The order passed is bad-in-law, null, void and without jurisdiction.

2. Ground No.2 The Assessing Officer (AO) had not complied with the provisions of Sec. 153D of the Act. AO passed Assessment Order without obtaining valid approval u/s. 153D of the Income Tax Act. The approval granted u/s. 153D should be after application of mind and not mechanically. Therefore, it is prayed that the assessment order so passed is bad in law; hence, the same may kindly be quashed.

3. Ground No. 3 Cash of Rs. 9,50,000/-: The ld. CIT(A) erred in confirming addition u/s. 69A of the seized cash of Rs. 9,50,000/-. The cash is explained and part of pin-money of lady's members, savings of family members and part cash belongs to appellant's mother kept for donation activities after her death. Therefore, it is prayed that addition of cash may kindly be deleted.

4. Ground: The appellant reserves its right to submit further details in connection with additions / disallowances made by AO as fresh evidence at the time of hearing of Appeal.

6. Ground: Your appellant craves liberty to add, to alter, to modify, to amend or to withdraw / delete any of the grounds of appeal at any time, on or before the hearing of appeal."

124. Before us, during the course of hearing no specific arguments was pressed before us. Accordingly, ground No. 2 of the assessee's appeal with respect to grant of mechanical approval under Section 153D of the Act is dismissed since it is squarely covered against the assessee by the decision of Ahmedabad Tribunal in the case of Smt. Neelu Sanjay Gupta vs. DCIT in IT(SS)A Nos. 147 & 148/Ahd/2019 for A.Y. 2005-06 & 2006-07 with respect to ground No. 3 relating to confirming addition under Section 69A of the Act in respect of seized cash of Rs. 9,50,000/-, since appeals in assessee's case for A.Y. 2019-20 and 2020-21 have been restored to the file of Ld. CIT(A) for de-novo consideration, in the interest of justice, this issue may also be restored to the file of Ld. CIT(A) for de-novo consideration with a liberty to IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 91- the assessee to present it's arguments/giving supporting documents before Ld. CIT(A), as may be deemed appropriate.

125. Accordingly, the appeal of the assessee is allowed for statistical purposes.

126. In the combined result,

(i) IT(SS)A No. 163/Ahd/2024 filed by the Revenue is allowed for statistical purposes.

(ii) C.O. No. 47/Ahd/2024 filed by the Assessee is dismissed.

(iii) IT(SS)A No. 164/Ahd/2024 filed by the Revenue is allowed for statistical purposes.

(iv) C.O. No. 48/Ahd/2024 filed by the Assessee is dismissed

(v) IT(SS)A No. 169/Ahd/2024 filed by the Revenue is allowed for statistical purposes

(vi) C.O. No. 49/Ahd/2024 filed by the Assessee is dismissed

(vii) IT(SS)A No. 170/Ahd/2024 filed by the Revenue is allowed for statistical purposes.

(viii) C.O. No. 50/Ahd/2024 filed by the Assessee is dismissed.

(ix) IT(SS)A No. 159/Ahd/2024 filed by the Revenue is allowed for statistical purposes.

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(x) C.O. No. 45/Ahd/2024 filed by the Assessee is dismissed.

(xi) IT(SS)A No. 160/Ahd/2024 filed by the Revenue is allowed for statistical purposes.

(xii) C.O. No. 46/Ahd/2024 filed by the Assessee is dismissed.

(xiii) IT(SS)A No. 157/Ahd/2024 filed by the Revenue is allowed for statistical purposes.

(xiv) C.O. No. 55/Ahd/2024 filed by the Assessee is dismissed.

(xv) IT(SS)A No. 158/Ahd/2024 filed by the Revenue is allowed for statistical purposes.

(xvi) C.O. No. 56/Ahd/2024 filed by the Assessee is dismissed.

(xvii) IT(SS)A No. 171/Ahd/2024 filed by the Revenue is allowed for statistical purposes.

(xviii) IT(SS)A No. 172/Ahd/2024 filed by the Revenue is allowed for statistical purposes.

(xix) C.O. No. 51/Ahd/2024 filed by the Assessee is Dismissed.

(xx) C.O. No. 52/Ahd/2024 filed by the Assessee is dismissed.

(xxi) IT(SS)A No. 173/Ahd/2024 filed by the Revenue is allowed for statistical purposes.

(xxii) C.O. No. 53/Ahd/2024 filed by the Assessee is dismissed.

IT(SS)A Nos. 163/Ahd/2025 & 30 others Asst. Year -2019-20, 2020-21 & 2021-22

- 93- (xxiii) C.O. No. 54/Ahd/2024 filed by the Assessee is dismissed.

(xxiv) IT(SS)A No. 161/Ahd/2024 filed by the Revenue is allowed for statistical purposes.

(xxv) IT(SS)A No. 179/Ahd/2024 filed by the Revenue is allowed for statistical purposes.

(xxvi) IT(SS)A No. 180/Ahd/2024 filed by the Revenue is allowed for statistical purposes.

(xxvii) IT(SS)A No. 108/Ahd/2024 filed by the Assessee is allowed for statistical purposes.

(xxviii) IT(SS)A No. 106/Ahd/2024 filed by the Assessee is allowed for statistical purposes.

(xxix) IT(SS)A No. 174/Ahd/2024 filed by the Revenue is allowed for statistical purposes.

(xxx) IT(SS)A No. 162/Ahd/2024 filed by the Revenue is allowed for statistical purposes.

(xxxi) IT(SS)A No. 107/Ahd/2024 filed by the Assessee is allowed for statistical purposes.

This Order is pronounced in the Open Court on

14/05/2026

Sd/-

(NARENDRA P. SINHA)

ACCOUNTANT MEMBER

Ahmedabad; Dated 14/05/2026

TANMAY, Sr. PS

Sd/-

(SIDDHARTHA NAUTIYAL)

JUDICIAL MEMBER

TRUE COPY

IT(SS)A Nos. 163/Ahd/2025 & 30
Asst. Year -2019-20, 2020-21 & 20
- 94-

/Copy of the Order forwarded to :

1. / The Appellant
2. / The Respondent.
3. / Concerned CIT
4. () / The CIT(A)-
5. i ¢ , £, ¥ / DR, ITAT, Ahmedabad
6. i f § ¨ / Guard file.

¢ / BY ORDER, ' / □ “ (Dy./Asstt.Registrar) £,
¥ / ITAT, Ahmedabad

1. Date of dictation 08&11.05.2026 (Dictated on dragon software)

2. Date on which the typed draft is placed before the Dictating Member 13.05.2026

3. Other Member.....

4. Date on which the approved draft comes to the Sr.P.S./P.S 14.05.2026
5. Date on which the fair order is placed before the Dictating Member for pronouncement
14.05.2026
6. Date on which the fair order comes back to the Sr.P.S./P.S 14.05.2026
7. Date on which the file goes to the Bench Clerk 14.05.2026
8. Date on which the file goes to the Head Clerk.....
9. The date on which the file goes to the Assistant Registrar for signature on the
order.....
10. Date of Dispatch of the Order.....