आयकर अपीलीय अधिकरण, विशाखापत्तनम पीठ, विशाखापत्तनम
INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM BENCH, VISAKHAPATNAM

BENCH: DIVN

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND SHRI MANJUNATHA G, ACCOUNTANT MEMBER

ITA 669 & 670/VIZ/2025 (निर्धारण वर्ष/Assessment Years: **2020-21 & 2021-22**)		
GORANTLA RAHUL KUMAR D.NO.7-5-64, PLOT NO.48, PANDURANGA PURAM, VISAKHAPATNAM, VISAKHAPATNAM-530003, ANDHRA PRADESH	Vs.	THE ASST. COMMISSIONER OF INCOME TAX , CENTRAL CIRCLE-1, VISAKHAPATNAM INCOME TAX OFFICE, PRATYAKSHAKAR BHAVAN, MVP DOUBLE ROAD, VISAKHAPATNAM-530017, ANDHRA PRADESH
अपीलार्थी **Appellant**		प्रत्यर्थी **Respondent**
PAN of Assessee:	CIQPG4938P	
अपीलार्थी द्वारा/Appellant represented by:	Sri GVN Hari, Advocate (HYBRID)	
प्रत्यर्थी द्वारा/Respondent represented by:	Sri Nilanjan Dey, CIT(DR)	

सुनवाई की तारीख / Date of conclusion of hearing:	09-Sep-2026
घोषणा की तारीख / Date of pronouncement:	16-Oct-2026

आदेश / ORDER

PER MANJUNATHA G, AM:

The above appeals filed by the assessee are directed against the order of the Learned Commissioner of Income Tax (Appeals), Visakhapatnam-3 [in short "the Ld.CIT(A)"], both dated 29.08.2025, and pertains to assessment years 2020-21 & 2021-22.

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2. The brief facts of the case are that, a search & seizure operation u/s.132 of the Income Tax Act, 1961 [in short "the Act"] was conducted in the Sardar Group of cases on 10.11.2021. During the course of search proceedings, a warrant of authorization u/s.132 of the Act was executed in the case of Sri Y. Ramesh Chandra, one of the key-persons of the assessee group and his residential premises. During the course of search, material/documents were seized from the residential premises of Sri Y. Ramesh Chandra and marked as A/YRC/RES/01 to 04 and said seized material contains information relating to Sri Gorantal Rahul Kumar (assessee). Therefore, assessment has been reopened u/s.147 of the Act and notice u/s.148 explanation (2)(iv) dated 08.03.2023 was issued and served on the assessee. In response to notice, the assessee filed Return of Income on 17.05.2023 by admitting total income of Rs.17,80,690/-. The case was selected for scrutiny and during the course of assessment proceedings, the AO observed that as per the seized material found during the course of search in the case of Sri Y. Ramesh Chandra, it was noticed that on-money has been received for sale of flats and the same has been confirmed by Sri Y. Ramesh Chandra, in a statement recorded u/s.132(4) of the Act on 12.11.2021. Further, to ascertain the facts of the statement given by Sri Y. Ramesh Chandra, a statement was recorded u/s.131(1) of the Act on 22.10.2023 wherein he confirmed the facts of the statement recorded u/s.132(4) of the Act. The statement given by Sri Y. Ramesh Chandra was also confirmed by Sri Y. Venkanna Choudary and in response to a specific question, he had admitted receipt of cash to the extent of Rs.28,02,500/- only during the FY 2020-21 relevant to AY 2021-22. However, he further stated that the assessee doesn't know about receipt of cash and

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accordingly, came forward to admit entire cash receipt of Rs.28,02,500/- as his income for AY 2021-22.

3. In the light of above facts, the AO called upon the assessee to explain 'as to why' addition shouldn't be made towards on-money received for sale of flats for the assessment year under consideration. In response to show cause notice, the assessee vide letter dated 31.01.2024 submitted that as mentioned in my previous corresponding I am NRI staying in Jamaica and I am entrusted the work of 'Gorantal Residency Project' at Guntur to my father by giving 'Power of Attorney' and he was assisted by Sri Y. Venkanna Choudary, who is relative. Further, I am not aware of any cash transaction for sale of land and if at all any cash transaction is there, then the same is accepted by Sri Y. Venkanna Choudary and therefore, further additions can't be made in my assessment. The AO after considering relevant submissions of the assessee and also taken note of relevant seized material found during the course of search observed that although, the assessee claims to have not aware of cash transaction and only Sri Y. Venkanna Choudary is aware of the transactions, but fact remains that the land on which 'Gorantal Residency Project' at Guntur has come up is in the name of the assessee and the permission, etc., for construction of building was also obtained in the name of the assessee. Since the assessee is a legal owner of the property, any cash transactions relating to said development and sale pertains to the assessee and accordingly, rejected the explanation of the assessee and estimated unaccounted cash receipts received towards sale of flat by taking into account average rate of Rs.3,000/- per sq.ft. and after considering the relevant sale consideration accounted by the assessee, the difference amount of Rs.21,47,500/- has been treated as unexplained money u/s.69A of the Act.

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4. Aggrieved by the assessment order, the assessee preferred an appeal before the Ld.CIT(A). Before the Ld.CIT(A), the assessee has challenged the validity of notice issued 148 of the Act. The assessee had also challenged additions made towards estimated on-money received for sale of flats contrary to statement given by Sri Y. Venkanna Choudary. The assessee had also challenged taxation of additions made towards on-money u/s.69 of the Act @60% under the provisions of Sec.115BBE of the Act. The Ld.CIT(A) after considering relevant submissions of the assessee and also taken note of various facts rejected the legal ground taken by the assessee challenging the validity of notice u/s.148 of the Act in the light of decision of the Hon'ble Supreme Court in the case of DCIT v. Kalinga Institute of Industrial Technology reported in [2023] 151 taxmann.com 434 (SC). The Ld.CIT(A) had also rejected the arguments of the assessee that the entire cash transactions related to the project is owned up and offered as income by Sri Y. Venkanna Choudary and therefore, the additions can't be in his hand by holding that once the assessee is a legal owner of the property, consequent transactions including cash transactions is taxable in the hands of the assessee. Therefore, rejected the explanation of the assessee and upheld the addition made by the AO towards estimated on-money received for sale of property. However, the Ld.CIT(A) accepted the arguments of the assessee and treated the addition made by the AO u/s.69A of the Act as business receipts and directed the AO to assess the income at normal rate of taxes in stead of taxation under the provisions of Sec.115BBE of the Act.

5. Aggrieved by the order of the Ld.CIT(A), the assessee is now in appeal before this Tribunal.

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6. The Ld. Counsel for the assessee, Mr. Sri GVN Hari, Advocate, submitted that the assessee has challenged the validity of notice issued u/s.148 of the Act dated 08.03.2023 by the Jurisdictional Assessing Officer (JAO) in the light of provisions of Sec.151A of the Act. Since, the matter is sub-judice before various High Courts, the grounds may be kept open to be decided at later stage if need arises, for which, the Ld.DR has not raised aby objection. Therefore, Ground No.2 of the assessee's appeal is not adjudicated and kept open to be decided at later stage, if need arises.

7. The next issue that came up for our consideration from Ground No.3 of the assessee's appeal is addition made by the AO towards on-money received for sale of flats for Rs.21,47,500/-. The Ld. Counsel for the assessee submitted that the Ld.CIT(A) erred in sustaining the addition made by the AO towards estimated on-money received for sale of property without appreciating the fact that as per the statement recorded from Sri Y. Ramesh Chandra & Sri Y. Venkanna Choudary, there is no dispute with regard to receipt of on-money for FY 2021-22 relevant to AY 2022-23. But fact remains that the said on-money has been owned up by Sri Y. Venkanna Choudary, the care-taker of the project and also disclosed additional income in his return filed for the relevant assessment year. The Ld. Counsel for the assessee further referring to alleged seized material and statement recorded from Sri Y. Ramesh Chandra submitted that the total alleged on-money received from the project was at Rs.28,02,500/- and the said on-money has been received and owned up by Sri Y. Venkanna Choudary, who is the relative of the assessee and caretaker of the project. Further, Sri Y. Venkanna Choudary had also filed Return of Income and declared entire amount of on-money of

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Rs.28,02,500/- for AY 2021-22. Therefore, once again, making additions towards estimated on-money by taking average sale rate of flat in the hands of the assessee is incorrect. Therefore, he submitted that the addition made by the AO and sustained by the Ld.CIT(A) should be deleted.

8. The Ld.Sr.AR for the Revenue, on the other hand, supporting the order of the Ld.CIT(A) submitted that the project is developed by the assessee. The assessee is the legal owner of the project. Since, the assessee is the legal owner, the claim of the assessee that Sri Y. Venkanna Choudary owned up on-money and also paid taxes on on-money doesn't absorb the assessee from his tax liability. The AO after considering relevant facts has rightly estimated on-money received for sale of flats and made additions in the hands of the assessee. The Ld.CIT(A) after considering relevant facts has rightly sustained the addition made by the AO. Therefore, he submitted that the order of the Ld.CIT(A) should be upheld and ground taken by the assessee should be rejected.

9. We have heard both the parties, perused the materials available on record and had gone through orders of the authorities below. The facts with regard to impugned dispute as emanated from the assessment records are that during the course of search in the case of 'Sardar Projects Pvt. Ltd.' & Sri Y. Ramesh Chandra, certain material/documents found shown various financial transactions relating to 'Gorantal Residency Project' at Guntur which was developed by the assessee by entering into development agreement with 'Sardar Projects Pvt. Ltd.'. The seized material found in the residential premises of Sri Y. Ramesh Chandra shows on-money receipt of Rs.28,02,500/-. In the statement recorded u/s.132(4) of the Act., Sri Y. Ramesh Chandra admitted receipt of on-money

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for sale of flats and also receipt of Rs.28,02,500/- for the FY 2020-21 relevant to AY 2021-22. Further, Sri Y. Venkanna Choudary who is relative of the assessee also confirmed the statement of Sri Y. Ramesh Chandra and further stated that the entire amount of Rs.28,02,500/- was received by him and the same was not known to the assessee. He further owned up and admitted on-money as his income and also filed Return of Income and paid taxes for AY 2021-22. The AO made addition of Rs.21,47,500/- towards estimated on-money receipts for sale of flats by taking into account average sale rate of flats and after considering relevant sale consideration declared by the assessee in his Return of Income, the difference amount has been treated as unexplained u/s.69A of the Act. Admittedly, the addition made by the AO towards alleged on-money of Rs.21,47,500/- is not supported by any incriminating material found as a result of search. Further, the addition made by the AO is purely on estimation by taking into account average selling rate of flats and the sale consideration declared by the assessee in his Return of Income filed for the relevant assessment year. The AO resorted to estimation on the basis of seized material found during the course of search in the case of Sri Y. Ramesh Chandra which shows on-money receipt of Rs.28,02,500/- for sale of flats for AY 2021-22. The above on-money has been accepted and admitted by Sri Y. Venkanna Choudary who was the caretaker of the Project as his income and also declared entire on-money of Rs.28,02,500/- as his income and paid relevant taxes. The AO on the basis of one piece of evidence has assumed that the assessee must have received on-money for sale of remaining flats and by taking into account average rate estimated on-money receipt of Rs.21,47,500/- for the assessment year under consideration.

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10. We have given our thoughtful consideration to the reasons given by the AO for making additions towards estimated on-money receipt for sale of flats u/s.69A of the Act, in the light of various arguments of the Ld. Counsel for the assessee and we ourselves do not subscribe to the reasons given by the AO for the simple reason that the AO doesn't have any evidences to support his findings that the assessee has received on-money for sale of flats for the impugned assessment years. Further, the AO resorted to estimation on the basis of one piece of evidence which shows receipt of on-money for sale of few flats in the FY 2020-21 relevant to AY 2021-22 which was confirmed by Sri Y. Ramesh Chandra & Sri Y. Venkanna Choudary. Admittedly, the entire amount on-money of Rs.28,02,500/- has been owned up by Sri Y. Venkanna Choudary and also made categorical statement that the assessee doesn't know about the cash transactions for sale of flats. Once, the person who was in-charge of the project has made a statement that the assessee was not aware of on-money and further, he was owned up the entire amount of on-money as his income and also paid taxes, then in our considered view, making additions by estimating the alleged on-money without any evidences is incorrect. The AO without there being any evidences for estimation of alleged on-money made addition u/s.69A of the Act for Rs.21,47,500/-. The Ld.CIT(A) without considering relevant facts simply upheld the addition made by the AO only on the ground that assessee is a legal owner of the Project and all permissions have been obtained in the name of the assessee. But, fact remains that, the assessee is an NRI and residing in Jamaica and he was not aware of the transactions relating to development and sale of flats except to the extent of receipt of consideration as per the registered Sale Deed and the same has been admitted and paid relevant taxes for the relevant assessment

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years. Therefore, in our considered view, addition made by the AO on estimation basis without any corroborative evidence for allegation of receipt of on-money can't be sustained. Therefore, we set aside the order of the Ld.CIT(A) and delete the addition made by the AO towards alleged on-money receipt of Rs.21,47,500/- u/s.69A of the Act.

11. In the result, appeal filed by the assessee in ITA No.669/Viz/2025 for AY 2020-21 is allowed.

ITA No.670/Viz/2025 for AY 2021-22:

12. The facts and issues involved in this appeal are identical to the facts and issues which we had already been considered in the assessee's own case for AY 2020-21. But for figures, the facts and issues are exactly identical. The AO made addition towards estimated of on-money receipt for sale of flats for Rs.77,62,000/- u/s.69A of the Act. We find that an identical issue has been considered by us, in the assessee's own case in ITA No.669/Viz/2025 for the AY 2020-21. The reasons given by us in the preceding paragraph Nos.8 & 9 shall, ***mutatis mutandis,*** apply to this appeal, as well. Therefore, for similar reasons, we set aside the order of the Ld.CIT(A) and delete the additions made by the AO towards estimated on-money for sale of flats for Rs.77,62,000/- u/s.69A of the Act.

13. In the result, appeal filed by the assessee in ITA No.670/Viz/2025 for AY 2021-22 is allowed.

14. In the result, appeals filed by the assessee for AYs 2020-21 & 2021-22 are allowed.

Sd/-	**Sd/-**
VIJAY PAL RAO	**MANJUNATHA G**
VICE PRESIDENT	**ACCOUNTANT MEMBER**

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Visakhapatnam
Dated: 16th October, 2026
TLN

Copy to:

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2	THE ASST. COMMISSIONER OF INCOME TAX , CENTRAL CIRCLE-1, VISAKHAPATNAM INCOME TAX OFFICE, PRATYAKSHAKAR BHAVAN, MVP DOUBLE ROAD, VISAKHAPATNAM
3	THE PCIT / CIT, VISAKHAPATNAM.
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