(iii) The Final Show-cause notice dated 06.03.2023 for A. Y. 2018-19 issued by the ACIT, Circle 49(1), Delhi to show-cause as to why the transaction of Rs. 75,61,87,332/- with RCI Industries should not be treated as unexplained expenditure.

(iv) Copy of the assessment order dated 23.03.2023 is passed by the Assessment Unit, Income Tax Department, NFAC wherein the transaction with RCI Industries were accepted as genuine transactions, under identical facts and circumstances of the case and no addition was proposed to made in the final assessment order by observing as under:

Again regarding bogus purchase from M/s RCI Industries & Technologies Limited the assessee stated as follows:

"The basis of the charge is not that no sales have been made, but that there are no corresponding purchases, on which the alleged tax was paid by them; for the reason that the transporters have denied transportation of goods under the GRs issued by them. This does not mean either that the goods were not purchased or these were not sold. The challenge is to the mode of transport and the denial by the respective transporters. This simply means that the goods reached their destination by such trucks, whose number differs from the number given in the GRs, or without the GRs and the transporter did not show its income from such transportation. It cannot by any stretch of imagination mean that no sales have taken place."

On 20.03.2023, assessee has submitted an order passed by a faceless unit, in other case reopened on basis of same information, who was the buyer of raw material from M/s RCI Industries & Technologies Ltd. The same has been perused.

Considering the information available on record and documents/facts furnished by the assessee, the submission of the assessee is accepted.

13.18 It is further seen that assessment in the case of Myco Electricals Private Limited, D-2/3 (Front Side), Okhla Industrial Area, Phase II, Tehkhand, Delhi – 110020, assessed under PAN AAACM1868P by the A.O. Assessment Unit, Income Tax Department, NFAC, purchase transactions with RCI have been accepted. Copy of the relevant assessment order appears at Page No. 1315 to 1317

(i) In this case the assessment was reopened "based on information that the assessee has entered into non-genuine transactions in the form of purchase the case was reopened u/s 147 of IT Act and order u/s 148A(d) was passed on 23.03.2022.

Later, notice u/s 148 dated 23.03.2022 & intimation to assessee dated 17.08.2022 for completion of assessment in accordance with procedure of section 144B of the IT Act, 1961, was also issued".

"(2) In response to the notice u/s 148 dated 23.03.2022 the assessee has filed a return of income on 08.04.2022 declaring a total income of Rs. Nil & claiming a refund of

Rs. 57,195/-& notice u/s 143(2) dated 28.10.2022 was issued. Further, notice u/s 142(1) dated 18.10.2022 and letters was issued calling for details. Notice u/s 133(6) dated 16.11.2022 was issued to M/s. RCI Industries and Technologies Ltd calling for details and the same was obtained. The assessment proceedings, in this case have been taken up through Faceless E-Assessment Scheme-2019. Hence, all the notices / letters were issued to the assessee through the system generated Email on its registered E-mail. The assessee has furnished replies on 21.11.2022, 01.02.2023 &02.03.2023……

…….."

(ii) Further it has been held in the order as under:

> *"3) In response to the notices & letters issued, the assessee has furnished necessarydetails & documents as called for. Upon perusal of the details & materials available on record, the assessment is completed u/s 143(3) r.w.s. 147 r.w.s. 144B as under.*
>
> *Returned Income Rs. Nil*
>
> *Assessed Income Rs. Nil"*

Since similar Purchase/Transactions made from RCI Industries in other cases have been accepted by the department, it would be against the principle of equality of law enshrined in Article 14 of the Constitution, if the claim is not accepted that the transactions with RCI Industries are genuine business transactions in the appellant's case

13.19 In this connection reliance is placed on the judgement of ITAT, SMC Bench dated 07.10.2022 in the case of Rasilaben Yogeshbhai Patel vs. ITO Ward 5(3)(2), Ahmedabad in ITA No.631/AHD/2019, wherein it was held as under:

> *Therefore, in our considered view when, the long term capital gain and exemption claimed by the co-owner has been accepted, then the assessee cannot be treated indifferently. In this regard we find support and guidance from the order of coordinate bench of this tribunal in case of M. Ambalal Desai v. ITO [IT Appeal No. 1870 (AHD.) of 2015, dated 7-1-2021 wherein it was held as under:*
>
> > *"7. We have considered the submission of both the parties and gone through the orders of Lower Authorities carefully. We have also deliberated on*

various case laws relied by the AR of the assessee. Before us, the AR of the assessee vehemently submitted that in assessee's co-owner case, the revenue has accepted similar Long Term Capital Gain in the scrutiny assessment. Copy of the assessment order in respect of two co-owners is placed on record. We have noted that no counter to the submission of the assessee, was made by DR that similar Long Term Capital Gain was accepted in case of co-owner.

8. The Hon'ble Madras High Court in ICT v. Kumararani Meenakshi Achi (supra) held that during the same assessment year same quantity of wealth in possession of co-sharer is subjected to a lower rate of taxation, it would be highly improper to burden a similarly situated co-sharer with a higher rate of tax. If such an action on the part of the assessing authorities is sanctioned it would militate against the principle of equality of laws enshrined in Article 14 of the Constitution. By following the same principle, the Co-ordinate Bench of this Tribunal in Chetanbhai Prahladbhai Gami v. ITO in ITA No. 2082/AHD/2013 dated 19- 7-2019, the Tribunal granted relief to the assessee holding that while making the assessment of the same property the similar treatment should be granted.

9. We have noted that in assessee's co-owner'scase with respect to the property against the sale of which the assessee claimed Long Term Capital Gain, the AO in assessee's co-owner case in Prabhodh chandra Ambelal Desai allowed the similar Long Term Capital Gain by passing the following order :

"3. On perusal of records and details submitted by the assessee it was found that the assessee was co-owner having share of 6.25% in the property sold for Rs. 2,00,00,001/- on 19-1-2009 situated at Survey No. 86, Lunsikui, Navsari. Value of property as per stamp duty valuation was determined at Rs. 4,09,01,000/-. The assessee has not declared capital gain as he has not filed Return of Income for AY 2009-10 . The said property was inherited by the assessee. The assessee has submitted valuation report of the property from Govt. Approved Valuer who has arrived value of property at Rs. 66,61,020 as on 1-4-1981. The value of the assessee's share comes to Rs. 4,16,314. Indexed cost as per section 48 of the Act is worked out at Rs. 24,22,947/-. As per stamp duty authority the assessee's share being 6.25% of sale value in the property comes to Rs. 25,56,310/-. Thus capital gain comes to Rs. 1,33,363/-, which was taxable in the

hands of the assessee. The capital gain of Rs. 1,33,363 has now been shown by the assessee in the Return of Income filed in response to notice u/s 148 of the Act. However, the assessee has not declared suo moto Long Term CapitalGain as he has not filed return of Income. The assessee has consciously not filed return of income to avoid payment of tax. Therefore, Penalty proceedings u/s. 271(1)(c) of the Act are initiated on this issue for concealment of income."

10. We have noted that identical worded assessment order was passed in other co-owner case i.e. Smt. Prabhaben Harshadrai Desai, relevant part of the assessment order is extracted below:

"3. On perusal of records and details submitted by the assessee it was found that the assessee was co-owner having share of 6.25% in the property sold for Rs. 2,00,00,001/- on 19-1-2009 situated at Survey No. 86, Lunsikui, Navsari. Value of property as per stamp duty valuation was determined at Rs. 4,09,01,000/-. The assessee has not declared capital gain as he has not filed Return of Income for AY 2009-10. The said property was inherited by the assessee. The assessee has submitted valuation report of the property from Govt. Approved Valuer who has arrived value of property at Rs. 66,61,020 as on 1-4-1981. The value of the assessee's share comes to Rs. 4,16,314. Indexed cost as per section 48 of the Act is worked out at Rs. 24,22,947/-. As per stamp duty authority the assessee's share being 6.25% of sale value in the property comes to Rs. 25,56,310/-. Thus capital gain comes to Rs. 1,33,363/-, which was taxable in the hands of the assessee. The capital gain of Rs. 1,33,363 has now been shown by the assessee in the Return of Income filed in response to notice u/s 148 of the Act. However, the assessee has not declared suo moto Long Term Capital Gain as he has not filed return of Income. The assessee has consciously not filed return of income to avoid payment of tax. Therefore, Penalty proceedings u/s. 271(1)(c) of the Act are initiated on this issue for concealment of income."

11. In view of the above aforesaid factual and legal discussion and respectfully following the decision of Madras High Court in Kumararani Meenakshi Achi (supra) and decision of Coordinate Bench in Prabhodh chandra Ambelal Desai (supra), the revenue cannot treat the assessee in different way, therefore, the addition to the Long Term Capital Gain added by the

AO, confirmed by ld.CIT(A) is deleted. In the result the grounds of appeal raised by the assessee are allowed."

10.1 In view of the above elaborated factual and legal discussion, and respectfully following the finding of coordinate bench of this tribunal in aforesaid case. We accept the contention of ld. AR for the assessee that once, the similar LTCG offered and exemption claimed by the co-owner has been accepted by the Revenue, then the assessee is also entitled for similar relief. We find convincing force in the submissions of the learned AR for the assessee. Hence, the appeal of the assessee is allowed.

13.20 Further reliance is placed on the judgement of ITAT Delhi D Bench in the case of Madhurittu Puri vs. DCIT. Circle International Taxation 2(2)(2) New Delhi in ITA No. 3063/Del/2022 for A. Y. 2019-20 dated 18.07.2023, wherein at Para 8.3 it was held that if an issue has been accepted in one case the same has to be accepted in the case of similarly situated assessee. The relevant extract of the judgement is as under:

"8.3 The assessee has placed copy of assessment order dated 23.09.2021 in the case of Mr. Janardhan Kapoor, brother of the assessee at page 215-216 of the Paper Book for AY 2019-20. His case was also selected for complete scrutiny by CASS. Her brother is also a non-resident Indian and had earned income from capital gain on sale of the same residential house in which he had 1/3rd share. The Ld. AO noted that this property was inherited by the assessee from his parents who had purchased the property in 1967/69. Since the property was purchased prior to 1st April, 2001, the assessee got it valued from a registered valuer and used the value for determining tax payable on long term capital gain arising from this transaction. The Ld. AO accepted the FMV as on 01.04.2001 as determined by the registered valuer of the assessee. Similarly, in the case of Ms. Poonam Sachdev, sister of the assessee, the assessment for AY 2019-20 was completed on 28.09.2021 after complete scrutiny under CASS (copy at page 221-222 of the Paper Book) without making any addition, though the assessee had declared 1/3rd share of capital gain arising from the sale of the same property. Therefore, we are of the view that the impugned addition in the case of the assessee is not warranted at all when the same FMV has been accepted in the cases of other co-owners."

We are further relying on the jdugement of ITAT Mumbai in the case of REKHA RAJESH JOGANI VS. INCOME TAX OFFICER WARD 19(3)(1), MUMBAI (ITAT MUMBAI 2025) wherein it was held as under:

9.1. We also take note of the decision of Coordinate Bench in the case of Balkrisna Gajanan Thopte vs. DCIT, in ITA No.3380/Mum/2019, dated 10.01.2024 for Assessment Year 2014-15 which also dealt with identical scrip of SRK Industries Ltd. deleting the addition made of similar account both u/s.68 and 69C. There are several other decisions of Coordinate Benches which dealt with the same scrip of SRK Industries Ltd. holding in favour of the assessee on similar nature of transaction as undertaken by the assessee. The same are listed below:

a. Shri Rakesh Shantilal Shah vs. ITO [ITA 1775/Mum/2019)
b. Smt. Geeta Khare vs. ACIT [ITA 4267/Mum/2018]
c. Shri Narendra Kumar Saraogi vs. DCIT [ITA 46 & 47/Kol/2018)
d. Aditya Vikram Sureka HUF vs. L.T.O [ITA No. 1650/Kol/2018)
e. Shree Shreyans Chopra vs. ACIT [ITA 661/Kol/2018)
f. Smt. Amrita Baid vs. I.T.O. [ITA No. 2477/Kol/2017]
g. Smt. Snehlata Chopra vs. I.T.O. [ITA No.1386/Kol/2018]
h. Smt. Pushpa Devi Chopra vs. I.T.O. [ITA No.1388/Kol/2018]
i. Smt. Sampat Devi Chopra vs. I.T.O. [ITA No. 1387/Kol/2018]

Considering the totality of facts and circumstances of the case, factual matrix and submissions of parties narrated as well as discussion and observations made herein above, we delete the addition made u/s 68 towards proceeds of sale of listed shares of SRK Industries Ltd. which gave rise to Long Term Capital Gain on the said sale, claimed exempt by the assessee u/s 10(38). Accordingly, grounds taken by the assessee in this respect are allowed.

13.21 In view of above where in other cases of Captain Industries and Myco Electricals Private Limited (supra), where the purchase and sale transactions with RCI Industries have been accepted as genuine transactions, it is my view that it would be against the principle of equality of law enshrined in Article 14 of the Constitution according to which "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India". Under the circumstances it is

to be accepted that the transactions with RCI Industries are genuine business transactions.

13.22 Further, in this connection reference may be made to the decision of Supreme Court in the case of Basheshar Nath vs The Commissioner of Income-Tax, Delhi & ... on 19 November, 1958 Equivalent citations: 1959 AIR 149, 1959 SCR SUPL. (1) 528, AIR 1959 SUPREME COURT 149 wherein it was held as under:

> *It is the first of the five Articles grouped together under the heading "Right to Equality". - The underlying object of this Article is undoubtedly to secure to all persons, citizen or non-citizens, the equality of status and of opportunity referred to in the glorious preamble of our Constitution. It combines the English doctrine of the rule of law and the equal protection T. clause of the 14th Amendment to the American Federal Constitution which enjoins that no State shall deny to any person within its jurisdiction the equal protection of the laws ". There can, therefore, be no doubt or dispute that this Article is founded on a sound public policy recognised and valued in all civilised States. Coming then to the language of the Article it must be noted, first and foremost that this Article is, in form, an admonition addressed to the State and does not directly purport to confer any right on any person as some of the other Articles, e.g., Art. 19, do. The obligation thus imposed on the State, no doubt, enures for the benefit of all persons, for, as a necessary result of the operation of this Article, they all enjoy equality before the law. That is, however, the indirect, though necessary and inevitable, result of the mandate. The command of the Article is directed to the State and the reality of the obligation thus imposed on the State is the measure of the fundamental right which every person within the territory of India is to enjoy. The next thing to notice is that the benefit of this Article is not limited to citizens, but is available to any person within the territory of India. In the third place it is to be observed that, by virtue of Art. 12, "the State" which is, by Art. 14, forbidden to discriminate between persons includes the Government and Parliament of India and the Government and the legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India. Article 14, therefore, is an injunction to both the legislative as well as the executive organs of the State and the other subordinate authorities. As regards the legislative organ of the State, the fundamental right is further consolidated and protected by the provisions of*

Art. 13. Clause (1) of that Article provides that all laws in force in the territories of India immediately before the commencement of the Constitution, in so far as they are inconsistent with the provisions of Part III shall, to the extent of the inconsistency be void. Likewise el. (2) of this Article prohibits the State from making any law which takes away or abridges the rights conferred by the same Part and follows it up by saying that any law made in contravention of this clause Shall, to the extent of the contravention, be void. It will be observed that- so far as this Article is concerned, there is no relaxation of the restriction imposed by it such as there are in some of the other Articles, e.g., Art. 19, cls. (2) to (6). Our right to equality before the law is thus completely and without any exception secured from all legislative discrimination. It is not necessary, for the purpose of this appeal to consider whether an executive order is a "law" within the meaning of Art. 13, for even without the aid of Art. 13 our right to the equal protection of the law is protected against the vagaries, if any, of the executive Government also.

13.23 Following the decision of Supreme Court and others as mentioned above the transactions of purchase and sale with the RCI Industries accepted as genuine in other cases under the similar circumstances should be accepted in the appellant's case and the addition of Rs. 21,21,45,681/-so made is deleted.

Thus, ground of appeal no. 12 of the appellant is "allowed".

Grounds of appeal no. 13, 14 15 & 16

14.1 In these grounds, the appellant has agitated that the action of the A.O. in making addition of Rs. 31,37,286/- u/s 69A of the I. T. Act 1961 being Estimated G.P. @ 10% of the Total Sale of Rs. 3,13,72,856/- made by Smita Global Private Limited to RCI Industries and Technologies Limited, is unjust, illegal, arbitrary and against the facts and circumstances of the case. It has also stated that action of the A.O. in making addition of Rs. 5,53,82,101/- u/s 69A of the I. T. Act 1961 being Estimated G.P. @ 10% of the Total Sale of Rs. 55,38,21,013/- made by the appellant to RCI Industries and Technologies Limited, is unjust, illegal, arbitrary and against the facts and circumstances of the case.

14.2 Further, it has stated that addition of Rs. 28,23,557/- u/s 69A of the I. T. Act 1961 being 50% of the GST @ 18% on the Total Sale of Rs. 3,13,72,856/-

made by Smita Global Private Limited to RCI Industries and Technologies Limited, which was not the part of the Show-cause notice dated 24.03.2025 and addition of Rs. 4,98,43,891/- u/s 69A of the I. T. Act 1961 being 50% of the GST @ 18% on the Total Sale of Rs. 55,38,21,013/- made by the appellant to RCI Industries and Technologies Limited, which was not the part of the Show-cause notice dated 24.03.2025.

14.3 I have considered the submission of the appellant. It is noted that Smita Global Private Limited was merged with the assessee company on 13.06.2018. The income from 14.06.2018 till 31.03.2019 is part and parcel of income of this company. Smita Global Private Limited have effected sales to RCI Industries at Rs. 3,13,71,856/- (being the correct figure instead of Rs. 3,13,72,856/-). The A.O. has acknowledged this figure of sale of Rs.3,13,71,856/- in Para 2.1 of the assessment order. The A.O. has held in Para 12.10 of the assessment order that the gross profit declared is not proper, which has not been elaborated upon, no reasons were mentioned and he has estimated G.P. of Rs. 31,37,286/- being 10% of sale of Rs. 3,13,72,856/- as income without rejection of books of accounts. This is contested in the Ground of Appeal No. 13.

14.4 Further the appellant has effected sales to RCI Industries at Rs. 55,38,21,013/-. The A.O. has held in Para 13.11 of the assessment order that the gross profit declared is not proper, which has again not been elaborated upon, no substantial reasons were mentioned and he has estimated G.P. of Rs. 5,53,82,103/- being 10% of sale of Rs. 55,38,21,013/- as income without rejection of books of accounts.

14.5 Further the A.O. has held that it is prevailing in the market that on bogus billing, generally 50% of the GST is routed back to person issuing invoices in Cash. In the case of the assessee the A.O. has held that GST @ 18% on sale of Rs. 3,13,72,856/- works out to Rs. 56,47,114/- and the 50% thereof of Rs. 28,23,557/- has been treated as unexplained money and assessed the total income of Rs. 59,60,843/- which is contested in the Ground of Appeal No. 14.

14.6 Similar addition of Rs. 5,53,82,101/- contested in Ground of Appeal No. 15 in respect of 10% of Sales of Rs. 55,38,21,013/- made by appellant to RCI Industries has been made and further addition of Rs. 4,98,43,891/- for 50% of the GST @ 18% on the Total Sale of Rs.

55,38,21,013/- has been made which is contested in the Ground of Appeal No. 16.

14.7 It is noted that the books of accounts were duly audited, stock tally was available, purchase and sales are verifiable with reference to the invoices issued, Stock entries – inward and outward on purchase and sales, closing stock has been properly valued, no discrepancy in the books of accounts have been found by the Assessing Officer. The books of accounts have not be rejected, the addition has been made on conjecture and surmises without any concrete of evidence in respect of any addition made by the A.O. The appellant has submitted that in view of this no addition is called for.

Addition for 50% of GST @ 18% on Sales to RCI Industries

14.8 It is seen that the addition for 50% of GST @ 18% on the total sales to RCI Industries has been made without issuance of a specific show-cause notice or providing an opportunity to the appellant to explain the alleged issue. The impugned addition, being based on assumptions, surmises, conjectures regarding GST, was not part of the show-cause notice dated 24.03.2025, thereby violating the principles of natural justice and the mandatory requirement of providing the assessee an opportunity to be heard on any proposed addition. Any addition made behind the back of the assessee or without putting the specific issue to notice is invalid in law.

14.9 The AO has made the addition assuming that 50% of the GST component charged on the total sales was allegedly routed back in cash to the invoice issuer. This finding is based purely on surmises, presumptions, and conjectures, without any credible evidence whatsoever. There is no statement or documentary evidence, no seizure, or any cash trail to support the claim that any portion of GST was routed back. The entire sales amount along with applicable GST was received through proper banking channels, and duly accounted for in the books of accounts. The GST was duly reported to the GST authorities both by the appellant and the RCI, and relevant returns (GSTR-1 and GSTR-3B) were filed accordingly and GST Paid.

14.10 Further it is seen that no unexplained money or assets found in the possession of the assessee, not recorded in the books of accounts. In the present case there is no unexplained cash found, No receipt in cash or unaccounted money has been traced to the appellant, the

sales and GST components are fully disclosed, recorded, and supported by invoices and bank statements. In absence of any direct evidence, the addition made under section 69A is completely unjustified and arbitrary. The GST component is statutory tax, collected on behalf of the government and deposited accordingly. Alleging that 50% of GST is returned in cash without any cogent material is both factually and legally untenable without any iota of evidence based completely on surmises, conjecture, presumptions, assumptions and without any evidence. Estimation of undisclosed income based on a notional percentage of GST component, without any trail of cash movement or corroborative evidence, is a clear case of overreach and is required to be deleted in entirety. In view of these facts, the addition for 50% of GST @ 18% on Sales to RCI Industries is not justified and in absence of any show-cause notice, evidence, or unexplained cash, may be deleted.

GST Order accepted the Input Credit Availed

14.11 It is seen that the GST department in its order dated 11.01.2024 vide reference no. ZD070124026439I has accepted the input credit claimed in the GST returns on purchases made and output liability on sales made in F. Y. 2018-19 and dropped the proceedings under Section 73/74 of GST Act. Copy of the GST order for dropping of GST proceedings dated 11.01.2024 has been perused.

14.12 Reliance is placed on the judgement of the Supreme Court in the case of Lal chand Bhagat Ambica Ram Vs. CIT (1959) 37 ITR 288 (SC) which is set in somewhat similar back drop in connection with treatment of the sales made as unexplained money on mere conjecture and surmise.

14.13 The relevant excerpts from the order of the Hon'ble Apex Court are reproduced here under:

> *If the entries in the books of account in regard to the balance in Rokar and the balance in Almirah were held to be genuine, logically enough there was no escape from the conclusion that the appellant had offered reasonable explanation as to the source of the 291 high denomination notes of Rs. 1,000 each which it encashed on 19th Jan., 1946. It was not open to the Tribunal to accept the genuineness of these books of account and accept the explanation of the appellant in part as to Rs. 1,50,000 and reject the same in regard to the sum of Rs.1,41,000.Consistently enough, the Tribunal ought to have accepted the explanation of the appellant in*

regard to the whole of the sum of Rs.2,91,000 and held that the appellant had satisfactorily explained the encashment ofthe 291 high denomination notes of Rs. 1,000 each on 19th Jan., 1946. [para 14]

The Tribunal, however, appears to have been influenced by the suspicions, conjectures and surmises which were freely indulged in by the ITO and the AAC and arrived at its own conclusion, as it were, by a rule of thumb holding without any proper materials before it that the appellant might be expected to have possessed as part of its business, cash balance of at least Rs. 1,50,000 in the shape of high denomination notes on 12th Jan., 1946,—a mere conjecture or surmise for which there was no basis in the materials on record before it. [para 15]

Unless the Tribunal had at the back of its mind the various probabilities which had been referred to by the ITO it could not have come to the conclusion it did that the balance of Rs. 1,41,000 comprising of the remaining 141 high denomination notes of Rs. 1,000 each was not satisfactorily explained by the appellant. [para 18]

If the entries in the books of account were genuine and the balance in Rokar and the balance in Almirah on 12th Jan., 1946, aggregated to Rs. 3,10,681-13-9 and if it was not improbable that a fairly good portion of the very large sums received by the appellant from time to time, say in excess of Rs. 10,000 at a time, consisted of high denomination notes, there was no basis for the conclusion that the appellant had satisfactorily explained the possession of Rs. 1,50,000 in the high denomination notes of Rs. 1,000 each leaving the possession of the balance of 141 high denomination notes of Rs. 1,000 each unexplained. Either the Tribunal did not apply its mind to the situation or it arrived at the conclusion it did merely by applying the rule of thumb in which event the finding offact reached by it was such as could not reasonably be entertained or the facts found were such as no person acting judicially and properly instructed as to the relevantlaw could have found, or the Tribunal in arriving at its findings was influenced by irrelevant considerations or indulged in conjectures, surmises or suspicions in which event also its finding could not be sustained. [para 19]

As the conclusion of the ITO was thus either perverse or vitiated by suspicions, conjectures or surmises, the finding of the Tribunal was equally perverse or vitiated ifthe Tribunal took count of all these probabilities and

without any rhyme or reason and merely by a rule of thumb came to the conclusion that the possession of 150 high denomination notes of Rs. 1,000 each was satisfactorily explained by the appellant but not that of the balance of 141 high denomination notes of Rs. 1,000 each.[para 20]

Therefore, the Tribunal in arriving at the conclusion in the present case indulged in suspicions, conjectures and surmises and acted without any evidence or upon a view of the facts which could not reasonably be entertained or the facts found were such that no person acting judicially and properly instructed as to the relevant law could have found, or the finding was, in other words, perverse and the Court is entitled to interfere. [para 23]

14.14 It is noted that, without prejudice to its claim that its purchases and sales are genuine, backed by compliance with GST returns, the income has already been shown in the books of accounts. The Turnover, Gross Profit, G.P. Ratio, Net Profit and Net Profit Ratio for the year under consideration and two preceding years is as under:

Comparative Ratios:

Particulars	A. Y. 2019-20	A. Y. 2018-19	A. Y. 2017-18
Turnover	2,14,83,66,946	2,41,92,66,934	2,37,79,52,021
Gross Profit	-14,38,802	2,21,738	1,24,18,042
G. P. Ratio	-0.07 %	0.01 %	0.52
Net Profit	3,40,11,691	33,17,452	24,92,313
N. P. Ratio	1.58 %	0.14%	0.1%

There is increased net profit shown during the year under consideration.

14.15 It is seen that recently similar issue arose for consideration in the case of Ashok Kumar Rungta Vs. Income Tax Officer 24(1)(1), Mumbai before the Bombay High Court in Income Tax Appeal No. 1753, 1759 & 2780 of 2018, who as per order dated 15.10.2024 held that