

CBI vs. Devendra Kumar Goel
KCR/2010A0015
CC No. 168/19
CNR No. DLCT11-0007782019

14.07.2020

Present: Sh. B.K. Singh, Ld. Sr. PP for CBI.

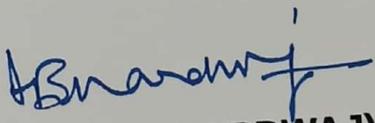
Accused No. 1 Sh. Devendra Kumar Goel and Accused No. 2 Smt. Susheela Goel in person.
Ld. Counsel Sh. J.S. Rai through VC using CISCO Webex App.).

Today, the case was listed for final judgment.

Vide separate judgment, Accused No. 1 Sh. D.K. Goel is convicted for the offence under Section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988 and accused No. 2 Smt. Sangeeta Goel is convicted for the offence under Section 109 of IPC read with Section 13(2) & 13(1)(e) of the Prevention of Corruption Act, 1988.

Now list on **16.07.2020 at 12:30 PM** through VC using CISCO Webex App. for arguments on sentence.

Copy of judgment given Dasti to convict no. 1 Sh. D.K. Goel and convict no. 2 Smt. Susheela Goel. Copy of judgment also given Dasti to Ld. Sr. PP for CBI.


(ARUN BHARDWAJ)
Special Judge (PC Act) (CBI-5),
Rouse Avenue District Court,
New Delhi:14.07.2020

**IN THE COURT OF SHRI ARUN BHARDWAJ, SPECIAL JUDGE
(P.C. ACT) (CBI-05), ROUSE AVENUE DISTRICT COURT,
NEW DELHI**

**RCDAl2010A0015
CC No. 168/19
CNR No. DLCT11-0007782019**

Central Bureau of Investigation

Versus

- 1 Sh. Devendra Kumar Goel
(name corrected vide order dated 01.04.2015)
S/o Shri M.L. Goel
The then Deputy Secretary,
Ministry of Home Affairs
Government of India, New Delhi.Accused No. 1**

- 2 Smt. Susheela Goel
W/o Sh. Devendra Kumar Goel

Both R/o A-605, Karor Apartment,
CGHS Ltd., Plot No. 39C, Sector-6,
Dwarka, New Delhi-110075Accused No. 2**

**Filed on: 29.04.2013
Reserved on: 03.07.2020
Decided on: 14.07.2020**

JUDGEMENT

- 1 Accused No. 1 Shri Devendra Kumar Goel (hereinafter referred to as Sh. D.K. Goel) had joined as a Direct Recruit Section Officer in the Department of Food, Government of India in July 1981 after qualifying Civil Services examination.**

- 2 In due course, he was promoted as Under Secretary/Assistant Finance Advisor in the Ministry of Defence (Finance), Deputy Secretary in the Ministry of Rural Development (Department of Land Resources) and was working as Deputy Secretary in the Ministry of Home Affairs when pursuant to registration of FIR No. RCDA 12010 A0015 against him and his wife Smt. Sangeeta Goel under Section 109 IPC; 13 (2), 13 (1) (e) of the Prevention of Corruption Act, 1988 on 10.05.2010, search was conducted at his premises on 12.05.2010.
- 3 On completion of investigation, chargesheet was filed on 29.04.2013 against the accused persons under Section 109 IPC; 13 (2), 13 (1) (e) of the Prevention of Corruption Act, 1988.
- 4 As per the chargesheet, Accused No. 1 Shri D.K. Goel was found to possess disproportionate assets (including assets of Accused No. 2 Smt Susheela Goel, Shri Kunal Goel – son, Kumari Sanyogita Goel – daughter and M/s Kunal Agro Business Associates Ltd. (hereinafter referred as M/s KABA) whose Managing Director is Smt. Susheela Goel) to an extent of Rs.91,26,158/- and the percentage of DA was 62.53%.
- 5 The check period was from 1981 to the date of search i.e. 12.05.2010.
- 6 During this period, Statement - 'B', the Assets, movable and immovable, of the accused and his family members were worth Rs.1,76,10,528/-, Statement - 'C', Income of the accused and his family members was Rs.1,45,93,786/- and the Statement - 'D', Expenses were Rs.61,09,416/-. Since the accused had, Statement - 'A', Nil assets at the beginning of check period, the DA (B-A plus D-C) was found to be Rs.91,26,158/- or 62.53%.
- 7 Statement – B of the chargesheet describes immovable and movable assets of the accused persons and assets in the names of their son, daughter and M/s KABA as under:-

Statement B

(Assets at the end of check Period)

(Immovable)

Sl. No.	Details of assets	Cost of acquisition	Period of acquisition
A	In the name of Sh. D.K. Goel		
1.	Plot No. 138-F, Saraswati Kunj Coop. Housing Building Society Ltd., Wazirabad, Gurgaon in the name of D.K. Goel	13,86,015/- (including stamp duty)	06.05.2003
2.	Flat No. A-605, Karor Coop. Group Housing Society Ltd., Plot No. 39, Dwarka in the name of D.K. Goel	14,26,800/-	2002-03
	Total	28,12,815/-	
B	In the name of Smt. Sangeeta Goel		
3.	Plot No. 1297, S.K. Coop, HBS, Wazirabad, Gurgaon in the name of Sangeeta Goel/Sanyogita Goel	17,16,560/-	29.04.2004
4.	Shop No. 230, Vardhman Plus City Mall, LSC, Sector-23, Dwarka	12,26,401/-	Aug. 2004 to Feb. 2007
5.	Stall No. 1, Pocket D & E, CSC Sarita Vihar, New Delhi in the name of Sangeeta Goel	50,000/-	July 1997
	Total	29,92,961/-	

C	In the name of Smt. Sanyogita Goel		
6.	Plot in Nav Nirman CGHS, Plot No. 6A, Sector-2, Dwarka in the name of Sanyogita Goel (No Flat Allotted)	16,20,100/-	31.10.2002 to 30.06.2009
D	In the name of Sh. Kunal Goel		
7.	Flat No. 702, Eligible CGHS Ltd., Plot No.38, Sector-10, Dwarka, Phase-I, in the name of Kunal Goel	21,19,770/-	2003 to May 2010
E	In the name of M/s KABA		
8.	Agriculture Land at Farrukh Nagar, Gurgaon		
8(i)	134 Kila No. 16/2(4-4) Chahi 16/1 (3-16), 133 Kila 11/1 (1-2) (Vaskika No. 16091) in the name of M/s KABA	5,06,250/- (including stamp duty)	04.01.1996
(ii)	134 Kila No. 18 (18-0)(Vaskika No. 15846) in the name of M/s KABA	3,36,875/- (including stamp duty)	01.01.1996
(iii)	Khawat Khata No. 598/664, Kila No. 134 (Vaskika No. 14487) in the name of M/s KABA	4,05,000/- (including stamp duty)	08.12.1995
(iv)	Kila No. 134, 17 (7-12) (Vaskika No. 16029) in the name of M/s KABA	5,06,250/- (including stamp duty)	03.01.1996

(v)	Kila No. 134, 24 (7-11) (Vaskika No. 16155) in the name of M/s KABA	5,06,250/- (including stamp duty)	05.01.1996
(vi)	Khawat No. 599 Khata No. 667 Kila No. 134, 14/1 (Vaskika No. 3510) in the name of M/s KABA	2,25,000/- (including stamp duty)	13.06.1996
(vii)	Kila No. 134, 14/2 (3-12) (Vaskika No.17931) in the name of M/s KABA	2,25,002/- (including stamp duty)	02.02.1996
(viii)	Kila No. 134, 7/1 (Vaskika No.18327) in the name of M/s KABA	2,25,003/- (including stamp duty)	09.02.1996
(ix)	Kila No. 134, 7/1 (2-6) (Vaskika No. 12980) in the name of M/s KABA	2,25,002/- (including stamp duty)	08.11.1995
(x)	Khawat No. 597 Khata No. 663 Kila No. 134, 19 (8-0) (Vaskika No.18271) in the name of M/s KABA	1,80,000/- (including stamp duty)	09.02.1996
(xi)	Kila No. 134, 20 (8-0) (Vaskika No.18814) in the name of M/s KABA	1,80,000/- (including stamp duty)	22.02.1996
(xii)	Kila No. 134, 21 (8-0), 22(8-0) (Vaskika No.18634) in the name of M/s KABA	3,60,000/- (including stamp duty)	16.02.1996
(xiii)	Khawat No. 568/650	4,21,875/- (including stamp duty)	30.01.1997

	Kila No. 133, 20 (8-0) (Vaskika No.15334) in the name of M/s KABA	stamp duty)	
(xiv)	Khawat No. 597 Khata No. 663 Kila No. 134, 19, 20, 21, 22 (8-0) (Vaskika No. 18866) in the name of M/s KABA	1,80,020/- (including stamp duty)	23.02.1996
(xv)	134 Kila No. 23(8-0) (Vaskika No. 15365) in the name of M/s KABA	3,36,875/- (including stamp duty)	22.12.1995
(xvi)	Land No. 600, 668 Khasra No. 134/13/2 Min, (Vaskika No. 2127) in the name of M/s KABA	32,070/- (including stamp duty)	13.05.1998
(xvii)	Khewat No. 600/571, Khatoni No. 668, Kila No. 134/13/2 (2-0) (Vaskika No.9887) in the name of M/s KABA	10,130/- (including stamp duty)	27.10.1997
(xviii)	Land No. 568/650, Khasra No. 133/19/1 Min, (Vaskika No.12994) in the name of M/s KABA	2,58,750/- (including stamp duty)	08.02.1999
(xix)	Land No. 259/227, Khasra No. 296 Mustil No.134 Kila No. 25 (7-11) (Vaskika No.934) in the name of M/s KABA	5,30,000/- (including stamp duty)	30.07.2004
9	Fixed assets other than agricultural land, in the name of	4,02,541/-	As on 31.03.2010

	KABA		
	Total	60,52,893/-	
	Grand Total	1,55,98,539/-	

Statement B

(Assets at the end of check Period)

(Movable)

Sl. No.	Details of assets	Cost of acquisition	Period of acquisition
1.	Office equipments in the O/o M/s Kunal Agri Business Associates	44,000/-	As on 31.03.2010
2.(i)	SB 00701010028047 in the name of D.K. Goel in Axis Bank	3,514/-	As on 10.05.2012
(ii)	CA 602520100020306 in the name of M/s KABA in Bank of India	3,724/-	-do-
(iii)	SB 602510100007921 in the name of D.K. Goel and Sangeeta Goel in Bank of India	24,141/-	-do-
(iv)	SB 602512100015633 in the name of Sangeeta Goel, Sanyogita Goel and Kunal Goel in Bank of India	2,880/-	-do-
(v)	SB 90552010037081 in the name of D.K. Goel in Syndicate Bank	6,032/-	-do-
	Sub Total	40,291/-	
3.	KVP's in the name of Kunal Goel, Sanyogita Goel and Sangeeta Goel	4,36,000/-	-do-
4.	Vehicle No. DL-9CR-3464 (Wagon R-LXI) in the name of D.K. Goel	3,60,133/-	July 2007
5.	Vehicle No. DL-3CAP-	3,84,337/-	December

	0502 (Santro Car) in the name of D.K. Goel including registration charges		2004
6.	Vehicle No. DL-3SAG-3129 (Pulsar) in the name of Sangeeta Goel including registration charges	52,750/-	April 2004
7.	Cost of jewellery acquired by Sangeeta Goel during check period	1,92,952/-	1995-2010
8.	Cash in locker No. 185 in Bank of India in the name of Sangeeta Goel and D.K. Goel	2,00,000/-	-do-
9.	Cash found in N-502, R.K. Puram in the name of D.K. Goel and Sangeeta Goel	19,760/-	-do-
10.	Household articles	1,78,750/-	-do-
11.	Shares/FDs		
11.(i)	Videocon Appliances	15,600/-	28.08.1995
11.(ii)	UTI Master Plan in the name of Sangeeta Goel	5,000/-	Sept. 1995
11.(iii)	PAAM Pharmaceuticals (Delhi) Ltd. in the name of Sangeeta Goel	15,096/-	Sept. 1994
11.(iv)	Essar Gujarat Ltd. in the name of Sangeeta Goel	11,424/-	Aug. 1995
11.(v)	Bharati Telecom Ltd. in the name of Sangeeta Goel	6,936/-	-do-
11.(vi)	Jindal Photo Films Ltd. in the name of Sangeeta Goel	20,400/-	-do-
11.(vii)	Essar Gujarat Ltd. in the name of Sangeeta Goel	11,424/-	-do-
11.(viii)	Essar Gujarat Ltd. in the name of Sangeeta Goel	17,136/-	07.08.1995
	Sub Total	1,03,016/-	
	Grand Total	20,11,989/-	

8 Statement – C at page 25 of the chargesheet describes income during the check period as under:-

Statement C

(Income during the check Period)

(Movable)

Sl. No.	Details of the income/source of fund	Amount	Period
A	M/s KABA		
1.	Share subscription amount towards shares of KABA (Subscription other than family members of D.K. Goel)	24,71,000/-	1995-97 and 2004-05
2.	Unsecured Loan	6,00,000/-	As on 31.03.2010
3.	Agriculture Income	22,86,627/-	1996-97 to 2009-10
4.	Liability towards Indian Bank OD-710379171 in the name of KABA	2,39,494/-	Aug. 2006 to May 2010
	Total	55,97,121/-	
B.	Sh. D.K. Goel		
5.	Net income from salary and allowances	21,28,454/-	July 1981 to April 2010
6.	GPF Withdrawal	21,63,878/-	1992 to 2010
7.	Rental Income from Flt No. A-605, Karoor, CGHS, Dwarka, New Delhi	7,95,400/-	2004 to 2010
8.	Capital gain from sale of Flat No. C-161, East Enjd. Appts., S.K. Chillo, Mayur Vihar, Phase-I, Delhi	8,97,000/-	Sept. 1999
9.	Interest in different bank accounts in the name of	13,964/-	Till 12.05.2010

	D.K. Goel and his family members		
	TOTAL	60,34,696/-	
C.	Smt. Sangeeta Goel		
10.	Disclosed in Voluntary Disclosure of Income Scheme (VDIS) on 17.11.1997	7,99,000/-	Till F.Y. 1995-96
11.	Income as per IT Returns filed by Smt. Sangeeta Goel	Rs.4,07,100/-	1995-96, 96-97, 97-98, 2001-02, 02-03
12.	Commission received from Suncity Group	1,89,959/- (1,65,182/- + 24,777/-)	2006
13.	Commission received from Ajay Bhatnagar	1,12,442/- (70,221/- + 42,221/-)	2008, 2009
14.	Gift from brother Sh. Sanjay Gupta	7,95,000/-	2003-2009
15.	Gift from Father Sh. J.P. Gupta	95,000/-	2004, 2010
16.	Rental Income from Shop No. 230, VPCM, Sector-23, Dwarka	1,05,000/-	2008, 2009
17.	Interest earned on NSCs (48 in nos.) for Rs.4,05,000/- in the name of D.K. Goel, Sangeeta Goel, Sanyogita Goel and Kunal Goel	2,86,068/-	1995 to 2009
	Interest earned on KVPs (face value Rs.1,35,000/-) in the name of Sangeeta Goel, Sanyogita Goel and Kunal Goel	1,36,400/-	Till 10.05.2010
	Total	29,25,969/-	
D.	Sanyogita Goel		
18	Sanyogita Goel	52,000/-	F.Y. 2002-03
	Grand Total	1,45,93,786/-	

9 It is important to mention here the details of Share Capital of M/s KABA which is mentioned at page 22,23 and 24 of the chargesheet as under:-

M/s Kunal Agro Business Associate Ltd.

i. Share Capital

Investigation has revealed that the company M/s KABA raised paid up equity worth Rs.68,72,000/- through equity share subscription by 360 shareholders which includes 7 promoters. The equity capital was raised during the F.Y. 1995-96, 1996-97 & 2004-05. It is revealed that except from Smt. Sangeeta Goel, most of the share subscription amount is received in cash for Rs.20,000/- or less. Further, in the year 2004, almost all the shareholders purportedly transferred their share holding in the name of Smt. Sangeeta Goel without any sales consideration.

The details of the shareholders of KABA who have accepted/denied investment, could not be examined etc. are as under:-

1 **The shareholders, other than Smt. Sangeeta Goel, who have accepted the investment.**

No. of the shareholder	Share subscription amount
11	1,91,000/-

2 **The shareholders who have denied investment.**

No. of the shareholder	Share subscription amount
105	17,24,000/-

3 **The shareholders who could not examined.**

3.1 **The shareholders with fictitious/wrong address:-**

No. of the shareholder	Share subscription amount	Remarks
99	16,46,000/-	They could not be traced and

		examined as the given address is either fictitious or such persons never resided
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3.2. The shareholders who have died/shifted (to unknown address) did not respond etc.:-

No. of the shareholder	Share subscription amount
72+67	12,07,000/- + 10,67,000/-

It is revealed that most of the purported share holders are not even known to Smt. Sangeeta Goel or Sh. D.K. Goel. Most of the shareholders have denied any transfer of share by them in the name of Smt. Sangeeta Goel. No agreement etc. in this regard has been executed.

Out of the total share capital of Rs.68,72,000/- a capital of worth Rs.10,31,000/- has been contributed by Smt. Sangeeta Goel and from her own sources including VDI disclosure etc. Out of the remaining amount i.e. Rs.58,41,000/-, the share holders including promoters have accepted to have invested a sum of Rs.1,97,000/- towards share capital. Out of doubtful share capital of Rs.56,44,000/-, an amount of Rs.17,24,000/- has been completely ruled out by the purported share holders. Besides this, a share capital of Rs.16,46,000/- is also ruled out as either no such share holder existed at the given address or the address itself is fictitious. Therefore, a share capital of Rs.33,70,000/- has purported shareholder completely ruled out. The remaining share capital of Rs.22,74,000/- contributed by the share holders could not be examined due to death, shift in address etc. is also doubtful. However, it could not be completely ruled out. Therefore, amount of Rs.24,71,000/- (Rs.58,41,000/- – Rs.33,70,000/-) which is not completely ruled out is taken as share capital contribution by members other than Smt. Sangeeta Goel.

Some of the share application form and share transfer in original seized during searches shows that the share transfer form has been signed in blank by the transferor. The name of the transferee, date, consideration etc. is not filled up. It shows that the said transfer form were got signed in advance in blank along with the share application forms.

It is further revealed that during Nov. – Dec. 2011 i.e. after registration of the case, Smt. Sangeeta Goel as CMD, M/s KABA issued cheques worth Rs.1,000/- each as token of appreciation to certain shareholders. However, it is revealed that no such investment was ever made by them in M/s KABA and cheques were issued as an effort to legitimate the investment made in M/s KABA.

10 Statement – D at page 29 of the chargesheet describes expenditure during the check period as under:-

Statement D

(Expenditure during check Period)

(Immovable)

Sl. No.	Details of expenses	Amount	Period
1.	Expenditure incurred towards land development of agricultural land in the name of M/s KABA at Farukh Nagar, Gurgaon	3,25,000/-	As on 31.03.2010
2.	Expenditure incurred towards project development (beside land development) of agricultural land in the name of M/s KABA at Farukh Nagar, Gurgaon	23,80,201/-	-do-
3.	Maintenance charges and ground rent paid for shop no. 230, Vardhman Plus Citi Mall, LSC, Sector-23, Dwarka	62,110/- (23,622+38,488)	Nov. 2006 to Nov. 2009
4.	Interest paid in excess of debit balance in Over Draft (OD) Account No. 602528100040034 at Bank of India in the name of Sangeeta Goel	1,82,612/-	June 2003 to 10 May 2010

5.	Interest paid in excess of principle amount in terms loan account no. 434161307 at Indian Bank in the name of D.K. Goel, Sangeeta Goel and Kunal Goel	3,96,000/-	Jan 2004 to May 2010
6.	Net Interest paid in excess of principle amount in housing loan account no. HBL-434159879 at Indian Bank in the name of D.K. Goel and Sangeeta Goel	1,35,766/-	Till 10.05.2012
7.	Interest paid in excess of principle to Axis Bank in auto loan account no. 245010601386095 in the name of D.K. Goel for vehicle No. DL-9CR-3464	15,711/-	Till 10.05.2010
8.	Interest paid in excess of principle to ICICI Bank in auto loan account no. LADEL00003195066 in the name of D.K. Goel for vehicle no. DL-3VCAP-0502	55,879/-	-do-
9.(i)	Navy Children School, Chanakyapuri	1,07,035/-	1997-2004
(ii)	New Delhi Institute of Management, New Delhi	1,61,210/-	2004-2007
10.(i)	Navy Children School, Chanakyapuri, New Delhi	70,542/-	1997 to 2002
11	Income Tax paid by Sangeeta Goel including tax on VDIS and other income	2,48,150/-	
12.	Fuel Expenses		
	Santo Car DL-3CAP-0502	Rs.2,23,422/-	
	Maruti Wagon-R, DL-9CR-3464	Rs.78,261/-	

	Bajaj Pulsar DL-3SAG-3129	Rs.14,440/-	
13.	Non Verifiable expenses	Rs.16,53,017/-	Till 10.05.2010
	GRAND TOTAL	61,09,416/-	

11 The calculation of DA has been mentioned at page 31 of the chargesheet as under:-

Calculation of DA

A	Assets at the beginning of check period	-	Nil
B	Assets at the end of check period:-		
	Immovable Assets	Rs.1,55,98,539/-	
	Moveable Assets	<u>Rs.20,11,989/-</u>	
	Total	Rs.1,76,10,528/-	
C	Income	Rs.1,45,93,786/-	
D	Expenditure	Rs.61,09,416/-	
E	DA (B-A+D-C)	Rs.91,26,158/-	
	% of DA (E/Cx100)	62.53%	

12 Order on Charge dated 01.04.2015: Charge was framed against both the accused persons vide orders dated 01.04.2015. Accused No. 1 was charged under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988 and the DA was reduced to Rs.89,55,592/- as he was given benefit of additional income of Rs.1,70,566 and Accused No. 2 was charged Under Section 109 of IPC read with Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988.

13 Admission/Denial: During Admission/Denial of the documents, the accused admitted 198 documents which were exhibited as Exhibit A-1 to A-198. This reduced, to a large extent, the dispute between the parties.

14 The prosecution examined 135 witnesses to prove its case. All the incriminating evidence was put to the accused persons under Section 313 of Cr. P.C. The accused persons also examined 32 witnesses to prove their defence.

15 On behalf of CBI, arguments were addressed by Shri B.K. Singh, learned Senior PP for CBI and the learned counsel for the accused persons Shri Jaspreet Singh Rai besides addressing lengthy arguments also submitted written arguments in 4 Chapters of 230 pages. Chapter 1 deals with written arguments in respect of Shri D.K. Goel, Chapter 2 deals with written arguments in respect of Smt. Susheela Goel and Chapter 3 deals with written arguments in respect of M/s KABA and Chapter 4 is titled as Final Calculation of Disproportionate Assets to conclude that income is more than Rs.22,90,597.76/- and the DA is therefore “Zero”.

16 Prosecution Evidence: PW1 Dr. Achal Gupta: – This witness was a tenant in Shop No. 230 Vardhman Plaza, Sector 23 Dwarka, New Delhi. He was examined to prove that he had given a rent of Rs.65,000/- to Smt. Sangeeta Goel in the year 2009. The witness however additionally proved that the security deposit of Rs.26,000/- was not returned to him by Smt. Sangeeta Goel. The witness also proved the rent deed as **Exhibit A 169** (D-141).

17 PW-2 Shri Akhilesh Singh: – This witness, Income Tax Officer, proved Income Tax Returns of M/s Kunal Agro Business Associates (M/s KABA) for the Assessment Year 2009-10, 2010-11, 2008-09, 2007-08, 2005-06, 2004-05, 2001-02, snapshot of Annexure of Income Tax Return for the Assessment Year 2001-02, snapshot of Annexure of Income Tax Return for the Assessment Year 2003-04 and snapshot of Income Tax Return for the Assessment Year 2006-07 as Exhibit PW2/1 to Exhibit PW2/10 respectively. All these documents are in D-90. During his cross-examination, the witness proved as Exhibit PW-2/D1 which is the Balance Sheet of M/s KABA for the assessment year 2004-05 to show Temporary Booking of Rs.8,10,000/-. The witness also proved as Exhibit

PW-2/D2 the notice under Section 144 of the IT Act dated 12.12.2008 which was issued to M/s KABA. The order passed on the said notice was proved as Exhibit PW-2/D3. As per this order, income of M/s KABA for Assessment Year 2006-07 was accepted as "Nil". Part of statement of this witness recorded under section 161 of Cr. P.C was proved as Exhibit PW-2/D5.

18 PW-3 Shri Arvind Mukherjee, Deputy Secretary, Ministry of Urban development, New Delhi:- This witness had provided details of Pay and Allowances drawn by the accused Shri. D.K. Goel and proved his letter dated 05.05.2011 vide which these documents were provided to CBI as Exhibit PW3/1 (D-115).

19 PW-4 Sh. Ajay Bhatnagar:- This witness is a property consultant and deposed having paid a commission of Rs.1,42,000/- to Smt. Susheela Goel for sale of a flat at New Town Heights, Gurgaon.

20 PW-5 Shri Kanwaljeet Singh Kapoor:- This witness was working as Assistant Manager in a Real Estate Company named as Sun City. He proved payment of Rs.22,723/- to Smt. Sangeeta Goel towards commission.

21 PW-6 Shri Jitender Kumar:- This witness was posted as Under Secretary in the year 2010 in the Ministry of Urban Development. He had provided the details of salary drawn by Sh. D.K Goel from 2001 to 2007. He proved his letter dated 16.08.2010 as Exhibit PW6/1 (D-118, Page No. 3) and the Salary Statement was proved as Exhibit PW6/2 (D-118, Page No. 185 to 190).

22 PW-7 Sh. Harish Chandra:- This Witness was working as Assistant Manager Marketing in Sun City Projects Private Ltd. and proved a payment of Rs.1,65,182/- to Smt. Sangeeta Goel through cheque no. 291641 dated 07.09.2006.

23 PW-8 Sh. Harish Chander Verma:- This witness was Accounts Officer in the Ministry of Defence. He had sent pay and allowances calculation of Sh. D.K. Goel w.e.f. August 1996 to 14.11.1998, Exhibit PW8/2. This witness had also sent details of GPF withdrawals/advances made by Sh. D.K. Goel with effect from September 1998 to December 2000, Exhibit PW8/3. He also proved pay and allowances of Shri D.K. Goel from November 1996 to 10.01.2001, Exhibit PW/4.

24 PW-9 Shri Pritam Singh:- This witness had provided the statement of pay and allowances of Shri D.K. Goel from April 2007 to March 2010 to CBI, Exhibit PW/9/2. The cross examination of this witness brought on record copy of first extract of the register at Entry No. 694 dated 19.03.2009 there is a mention of payment of Rs.5,03,760 which was made to accused Shri D.K. Goel, Exhibit PW 9/D1. Second payment is dated 01.05.2009 for an amount of Rs.32,500/- in favour of Shri D.K. Goel, Exhibit PW9/D2. The Sanction Order dated 30.04.2009 of these two payments was proved as Exhibit PW9/D3.

25 PW-10 Ms Seema Rani:- This witness was working as Assistant Manager in Government Mint in the year 2012 and had produced the Pay and Allowances Statement of Shri D.K. Goel from November 1988 to November 1990, Exhibit PW 10/2.

26 PW-11 Shri Sunjeev Batra:- This witness was Income Tax Officer in Ward 24 (1) New Delhi. He proved as Exhibit PW 11/1 the processing document under Section 143 (1) of Income Tax Act regarding the income tax return of Ms. Sanyogita for the Assessment Year 2003-2004.

27 PW-12 Shri K.K. Pant:- This witness was working as Drawing and Disbursement Officer in Institute of Secretariat Training and Management, New Delhi and had provided Pay and Allowances

Statement of Shri D.K. Goel who had undergone training in the said Institute from 01.08.1982 to January 1983, Exhibit PW 12/2.

28 PW-13 Shri S.C. Bhatia:- This witness was the DDO in Ministry of Home affairs and had sent to CBI salary statement of Shri D.K. Goel, Exhibit PW 13/2.

29 PW-14 Shri Rajesh Choudhury:-This witness was the Drawing and Disbursing Officer in the Department of Food and Public Distribution. He had provided salary details of Shri D.K. Goel from July 1981 to December 1981, Exhibit PW 14/2.

30 PW-15 Shri S.S. Bora:- This witness was examined to prove the cost of Flat No. A-702, Karor CGHS Ltd, Plot No. 396, Sector-6, Dwarka, New Delhi in the name of Shri D.K. Goel. The Audit Report for the year 2003-04 was proved by this witness as Exhibit PW 15/2 (D-7, Page No. 2). This is a list of members with their deposits as on 31.03.2004. The name of accused Shri D.K. Goel appears at Serial No. 82 showing that he has made payment of Rs.13,47,550/- to the society till 31.03.2004. The witness had also sent letter dated 12.10.2010 to CBI informing therein that the total cost of flat paid by Shri D.K. Goel is Rs.13,83,115/-, Exhibit PW 15/4 (D-6). The witness also produced as Exhibit PW 15/5 (D-6, Page No. 319) which is the ledger account of Shri D.K. Goel showing a payment of Rs.1,62,051/- for the period from 02.09.2004 to 28.04.2010 towards maintenance charges. During cross examination, the witness was shown one photocopy of a document. According to the accused, this photocopy of document was supplied to him by CBI. The witness admitted that this document is in his handwriting and was therefore exhibited as Exhibit PW 15/D1. As per this letter, the accused had made payment of Rs.12,50,000/- from 07.03.2002 to 24.09.2002 to the society. The witness could not tell the records on the basis of which it was mentioned in Exhibit PW-15/4 that the accused has made payment of

Rs.13,83,150/- for the purchase of the flat. The witness went on to state that he had no record beyond Rs.12,50,000/- of the payments made by the accused.

31 PW-16 Shri Bharat Gupta:- This witness was the secretary of Eligible Cooperative Proposing Society. The witness deposed that as per the records of the society, a sum of Rs.21,63,376/- was made by Shri Kunal Goel up to 05.11.2011.

32 PW-17 Shri Udesh Kumar:- This witness was Manager (Accounts) in Vardhman Properties Ltd. and deposed that Shop No. 230, Vardhman Plus City Mall, Sector-23, Dwarka, Delhi was purchased by Smt. Susheela Goel and she had paid a sum of Rs.12,26,401/- as cost of this shop from 28.08.2004 and 15.02.2007. He proved the details of payments as Exhibit PW-17/2. He deposed that she had made a payment of Rs.23,622/- on 18.11.2009 and Rs.38,488/- on 10.11.2006 towards ground rent and maintenance charges respectively. The details towards ground rent were proved as Exhibit PW-17/3.

33 PW-18 Shri Yoginder Aggarwal:- This witness was Audit Officer Cooperative Societies, Ambala. He deposed that Smt. Sangeeta Goel has deposited a sum of Rs.13,25,200/- towards cost of the plot as a member of Saraswati Kunj Co-operative Society having Membership No. 1777. He deposed that the passbook given to Smt. Sangeeta Goel shows a payment of Rs.15,25,200/- but as a cheque of Rs.2,00,000/- issued by her had bounced, the actual payment made by her was Rs.13,25,200/- only. In cross examination, the witness deposed that Smt Sangeeta Goel had made payment of Rs.11,25,000/- only till the date of registration of sale deed and stamp paper for the registration of the sale deed was purchased by society. He volunteered that the society had later on claimed this amount from the member.

34 PW-19 Shri Ashish Saraswat:- This witness was Front Desk Officer in the Axis Bank, Nirman Bhawan Extension Counter, New Delhi. He had supplied Statement of Account of Shri D.K. Goel for Account No. 007010100280747 with effect from 04.02.2005 to 13.05.2010, Exhibit PW-19/1.

35 PW-20 Shri Rajeev Aggarwal:- This witness is a Chartered Accountant. He was auditor of M/s KABA from 1996-97 till 2003-2004. He was also tax consultant for the said company at the time of his deposition in the Court. He proved Saral Form of Income Tax of Smt. Sangeeta Goel for Financial Year 2002-03 already Exhibit PW 11/D. Similar form for the Financial Year 1998-99 was proved as Exhibit PW-20/2. Similar forms for the Financial Year 1996-1997 and 1995-96 were exhibited as Exhibit PW 20/3 and Exhibit PW 20/4 respectively. Order passed under section 143 (3) of Income Tax Act dated 29.12.1998 was proved as Exhibit PW 20/5. The witness also proved as Exhibit PW20/7, the Share Transfer Details of M/s KABA.

36 PW-21 Shri Prem Lal Malik:- This witness was Deputy Registrar of Companies in the office of Registrar of Companies. He proved Balance Sheets, Annual Returns for various Financial Years of M/s KABA as Exhibit PW 21/2, Exhibit PW 21/4 and Exhibit PW 21/5.

37 PW-22 Shri Anil Gupta:- This witness was Accounts Manager in PP jewellers Private Ltd and had proved an invoice dated 25.01.2004 as Exhibit PW 22/2. In cross examination he deposed that the name of purchaser is not mentioned on the invoice.

38 PW-23 Shri Pratap Chakravarty:- This witness was the Secretary of East End Group Housing Society. He deposed that Shri D.K. Goel was the allottee of Flat No. C-161. He deposed that Shri D.K. Goel had paid a total amount of Rs.2,03,100/- between 1986 to 1991 to the society

against the cost of said flat. The letter written by this witness indicating the cost of the flat was proved as Exhibit PW-23/2 (D-124). He further proved that this flat was sold by Shri D.K. Goel to Shri Rakesh Bharat for a sum of Rs.11,00,000/- on 08.09.1999.

39 PW-24 Shri Jaji Sahni:- This witness was shown as a shareholder of M/s KABA by Smt. Sangeeta Goel. The witness however denied having made any investment in any company or shares. He denied his signatures on Share Transfer Certificate dated 15.02.2004 allegedly transferring 1800 shares of M/s KABA to Smt. Sangeeta Goel as a gift/ without consideration. He deposed that he never had any share of M/s KABA. He deposed that his son had received a letter dated 27.11.2011 from Smt. Sangeeta Goel along with a cheque for Rs.1,000/- informing that they had made some investment in M/s KABA. He deposed that he had sent the copy of the letter along with photocopy of the cheque and envelop to CBI, Exhibit PW 24/2. He also proved as Exhibit PW 24/3 by which they had returned the amount of Rs.1,000/- through a cheque along with their letter dated 25.06.2012 to M/s KABA stating that neither this witness nor his son had invested any money in M/s KABA and therefore returned the amount of Rs.1,000/-. This letter was proved as Exhibit PW 24/3.

40 PW-25 Shri A.S. Negi:- This witness has also denied having made any investment in any company or shares including M/s KABA.

41 PW-26 Shri Dalbir Singh Negi:- This witness has also denied having made any investment in any company or shares including M/s KABA.

42 PW-27 Shri Anil Kumar:- This witness was working as UDC at Transport Authority, South Zone and deposed about registration of a Bajaj Pulsar Bike in the name of Smt. Sangeeta Goel. He deposed that as per the invoice, cost of this vehicle was Rs.52,750/- and a sum of

Rs.1,280/- was charged as registration charges. With regard to Hyundai Santro car in the name of Shri D.K. Goel, he deposed that the insured value of the vehicle was mentioned as Rs.3,65,120/-. He deposed that the registration charges for the registration of this vehicle were Rs.6,115/-. He deposed that as per dealer invoice of this vehicle, Exhibit PW-27/11 (D-73) the value was Rs.3,84,337/-.

43 PW-28 Shri G.K. Banerjee:- This witness was working in Bank of India, Malai Mandir Branch, New Delhi and proved the Seizure Memo dated 13.03.2012 vide which various documents pertaining to overdraft limit sought by Smt. Sangeeta Goel and the Statement of Account for different periods for the account of Smt. Sangeeta Goel and Shri D.K. Goel were furnished by this witness to CBI. These documents were exhibited as Exhibit PW 28/1 to Exhibit PW 28/19 (Part of D-61 to D-66).

44 PW-29 Shri Sachit Taneja: This witness from ICICI Bank deposed about car loan taken by Shri D.K. Goel for Vehicle No. DL 3C AP 050. He deposed that a sum of Rs.3,96,362/- was paid by Shri D.K. Goel towards this loan. In cross examination, he deposed that a sum of Rs.33,783/- was given as margin money by the borrower to the dealer. He proved car loan documents as Exhibit PW 29/1 to PW 29/3. The receipt for margin money was proved as Exhibit PW 29/D1.

45 PW-30 Shri Uday Kumar:- This witness from Indian Bank proved Statement of Account of M/s. KABA, Smt. Sangeeta Goel, Shri D.K. Goel and Smt. Sanyogita Goel along with certificates under section 65B of the Indian Evidence Act and under Section 2A of the Banker's Books Evidence Act as Exhibit PW 30/1 to Exhibit PW 30/10 (Part of D-67 to D-71).

46 PW-31 Shri Kamal Nain Sharma:- This witness from Syndicate Bank proved the Statement of Account of Shri D.K. Goel pertaining to Account

No. 64087. He had also given a certificate under Section 2A of the Bankers Books Evidence Act, 1891. He also proved Statement of Account in respect of Account No. 90552010037081 of Shri D.K. Goel, Smt. Sangeeta Goel, Sh. Kunal Goel and Kumari Sanyogita Goel. All these documents were proved as Exhibit PW 31/1 to Exhibit PW 31/4 (Part of D-58).

47 PW-32 Shri Suresh M.N.:- This witness from Tribhuvandas Bhimji Zaveri Jewellers deposed about sale of golden ornaments in the name of Shri Sanjay Gupta and in the name of Smt. Sangeeta Goel.

48 PW-33 Shri Sunil Kumar:- This witness had conducted the search at the residence of accused Shri D.K. Goel on 12.05.2010 and proved the Search and Seizure Memo as Exhibit PW 33/1 (D-2). During his cross-examination, he proved further documents as Exhibit PW 33/D1 to Exhibit PW 33/D13.

49 PW-34 Smt. Minesh Tuteja:- This witness deposed that prior to the year 2011 she was not knowing anybody named as Smt. Sangeeta Goel, Sh. Devendra Goel or anybody from their family. In November 2011, she received a cheque for an amount of Rs.1,000/- from M/s. Kunal Agro Business Associates which she deposited in her bank account. She tried contacting M/s. KABA but could not succeed. Apprehending that something might be wrong, she returned this amount by sending a cheque of Rs.1,000/- bearing no. 6911554 dated 23.04.2012 drawn on HDFC bank. She proved this letter as Exhibit PW 34/1 (D-100). She deposed that she had never invested any amount in M/s. KABA. She deposed that she again got a letter dated 11.05.2013 from M/s. KABA with a cheque of Rs.5,000/- dated 10.04.2013. She proved the letter and the cheque as Exhibit PW 34/2 and Exhibit PW 34/3. She deposed that she never owned any shares of M/s KABA and therefore could not have gifted those shares to Smt. Sangeeta Goel. She denied her signatures

on Share Transfer Form for transferring 1500 shares in the name of Smt. Sangeeta Goel. This document was exhibited as Exhibit PW 34/4 (D-94, Page-24). During her cross examination, she deposed that her husband Shri Rajeev Tuteja had also received a cheque of Rs.1,000/- from M/s. KABA. She denied a suggestion that she had returned the money to M/s. KABA on the instructions of CBI officials. She admitted that on 25.04.2012 she had sent speed post letters to Smt. Sangeeta Goel and Shri V.M. Mittal, Dy. SP of CBI. The original speed post receipts were exhibited as Exhibit PW 34/D1 and Exhibit PW 34/D2. The statement of this witness recorded under section 161 of Cr. P.C where she had stated that when she had called M/s. KABA she was told that she had invested a sum of Rs.15,000/- with M/s. KABA in the year 1995 was exhibited as Exhibit PW 34/D3. She denied her signatures on Application for Shares, Exhibit PW 34/D4.

50 PW-35 Shri Badrul Hassan:- Just like the earlier witness, this witness also deposed that he had not known anybody named Sh. Devendra Goel, Smt. Sangeeta Goel or any of their family members before 2011. He also deposed that in November 2011 he had received a cheque for an amount of Rs.1,000/- from M/s. KABA. He deposed that he had not invested in the said company and he did not deposit the said cheque in his account and sent a letter at the address given in the letter asking why this cheque had been sent to him. The letter dated 13.11.2011 and the cheque received by this witness were exhibited as Exhibit PW 35/1 and Exhibit PW 35/2 respectively. The envelope in which he had received this letter and the cheque was exhibited as Exhibit PW 35/3. The letter written by this witness to M/s. KABA was proved as Exhibit PW 35/4. He deposed that his wife had also received a similar cheque which he had handed over to CBI along with his letter of 16.03.2012, Exhibit PW 35/5 (D-106). The witness deposed that he had never gifted

any shares of M/s. KABA to Smt. Sangeeta Goel. He deposed he never owned any shares of M/s KABA, therefore there was no question of their transfer in favour of Smt. Sangeeta Goel. When shown photocopy of Share Transfer Form allegedly transferring 1500 shares in the name of Smt. Sangeeta Goel, the witness denied his signatures on the same. The original Share Transfer Form produced by the accused was exhibited as Exhibit PW 35/6 (This form has been kept along with D-94). During his cross-examination, when the witness was confronted with a document titled as Application for Shares, he admitted his handwriting on the same from point A to A and also admitted his signatures at point B. This application form was exhibited as Exhibit PW 35/D1. Same was his response with regard to Application for Shares in the name of his wife Ms. Shahana Hasan and that Application Form was also exhibited as Exhibit PW 35/D2.

51 PW-36 Shri Avneet Singh:- This witness also deposed that prior to 2011, he was not knowing Shri Devendra Goel, Smt. Sangeeta Goel or anyone from their family or M/s. KABA. He deposed that in November 2011 he had received a cheque from M/s. KABA for a sum of Rs.1,000/- which he had deposited in his bank account. He deposed that he had never invested any amount in M/s. KABA and had signed on a blank paper on the request of his friend Shri Jaspreet Singh purported to be investment being made in some company. He deposed that he also received another cheque for a sum of Rs.5,000/- from M/s. KABA which he deposited with Enforcement Department. He deposed that he had never gifted any shares of M/s. KABA in favour of Smt. Sangeeta Goel. He denied his signatures on Share Transfer Form, original of which was produced by the accused, Exhibit PW 36/1. However, during his cross-examination, he admitted that portion A to A of the Form has been filled up in his own handwriting and he also admitted his signatures at point B

on the said form. He also admitted that he had deposited the cheque of Rs.1,000/- in his bank account after meeting Smt. Sangeeta Goel and Shri D.K. Goel.

52 PW-37 Shri B.B. Saraswat:- The evidence of this witness is also identical to the evidence of the previous witness noted above except that this witness did not identify his signatures on Application for Shares and only admitted his handwriting on the same and the form was exhibited as Exhibit PW 37/D1.

53 PW-38 to PW-46, PW-48 to PW-96, PW-98, PW-101 to PW-105, PW-107, PW-116, PW-117, PW-122, PW-125, PW-132 to PW-134: All these witnesses have also denied having made any investment in M/s. KABA.

54 PW-100, PW-108, PW-109, PW-110, PW-111, PW-112, PW-117, PW-118, PW-123, PW-124, PW-126 and PW-127: All these witnesses are the officials of CBI who were given notices for affecting service for those individuals who had allegedly made investment in M/s. KABA. In total, they were given 76 such notices and they reported that either the addresses were incomplete or the addresses were non-existent or the addressee never resided at the mentioned address in the notice.

55 PW-99 Shri Jitendra Malhotra:- This witness had resided at Flat No. A-605, Karor Apartments as a tenant of Shri D.K. Goel. The Production cum Seizure Memo dated 14.05.2010 was proved by this witness as Exhibit PW 99/1. He also proved Rent Agreements dated 27.07.2007 and 25.07.2009 as Exhibit PW 99/2 and Exhibit PW 99/3 respectively. He deposed that initially rent per month was Rs.15,000/- which was increased to Rs.16,000/- with effect from 01.08.2008 and with effect from 01.08.2009, the rent was increased to Rs.19,000/- per month. In cross-examination, he also deposed that he had given a security amount of Rs.39,000/- to Shri D.K. Goel.

56 PW-106 Shri Ramesh Sharma:- This witness deposed that he had purchased Flat No. 159, Munirka Vihar from M/s. KABA represented by Smt. Sangeeta Goel for a sale consideration of Rs.10,00,000/-. He deposed that he had paid a sum of Rs.1,00,000/- when Agreement to Sell was executed through Cheque No. 811951 dated 15.04.1997. The remaining amount of Rs.9,00,000/- was paid by him on 19.05.1997 vide Pay Order No. 034409. He deposed that he had not made any other payment to Shri D.K. Goel. During his cross-examination, the witness admitted that the flat also had a servant quarter but the said servant quarter was not sold to him as he was informed by Shri D.K. Goel that servant quarter had already been sold to somebody else. He denied a suggestion that the sale consideration of the flat was Rs.34,50,000/-. He denied a suggestion that he had paid a sum of Rs.23,50,000/- in cash on 20.05.1997 towards purchase of this flat.

57 PW-113 Shri V. Subhrraahmanyam:- This witness has deposed about the Salary and Allowances of the accused Shri D.K. Goel while the accused was posted in Ministry of Defence (Finance) w.e.f. July, 2008 to April, 2012 as Exhibit PW 113/1 (D-117, Page 204 to 208). Salary details of the accused from December 1981 to July 1986 were proved as Ex. PW-113/3 (D-117, Page 2 to 4).

58 PW-114 Smt. Savita Rani:- This witness was the Sub- Postmaster at R.K. Puram Post Office. She deposed about Kisan Vikas Patras (KVP's) and National Savings Certificates in the name of Shri Kunal Goel, Smt. Sangeeta Goel and Kumari Sanyogita Goel and proved documents Exhibit PW-114/1 to PW-114/6.

59 PW-115 Shri Yashpal Khanna:- This witness is a jeweller by profession and deposed that he is running his business at F/1 Krishna Nagar, Delhi in the name of M/s. Khanna jewellers and there was no shop or entity named as M/s. Neha Jewellers at this address.

60 PW-119 Inspector Gaurav Singh:- This witness had also conducted investigation in this case and deposed about the documents seized by him and the statement of witnesses recorded by him. During his cross-examination he deposed that he had not sought any information from Shri Sanjay Gupta brother of Smt. Sangeeta Goel with regard to Exhibit PW-33/D6. This is Agreement to Sell between Smt. Sangeeta Goel and Sh. Sanjay Gupta (her brother) w.r.t. Plot of Smt. Sangeeta Goel at Saraswati Kunj, Cooperative Society, Gurgaon, Haryana. He denied a suggestion that Shri Sanjay Gupta had told him that he used to work in Whirlpool and all the goods made by Whirlpool recovered during the house search of Shri D.K. Goel had been gifted to him. The witness deposed that he did not verify the income of Shri Sanjay Gupta which was stated to be Rs.80,00,000/- per annum. The witness admitted that he was told by Shri Sanjay Gupta that at the relevant time, he was residing in China and had kept all his documents and valuable jewellery at the house of his sister. The witness could not say why he did not enquire from Shri Sanjay Gupta regarding Exhibit PW 33/D6.

61 PW-120 Inspector A.K. Mishra:- This witness was working as Manager HR with P.C Jeweller and proved few invoices as Exhibit PW121/1-PW 121/2.

62 PW-128 Sh. Rajesh Mittal:- This witness was the Treasurer of Karor Society and importantly proved three documents which are (i) Letter dated 30.11.2002 of the Society addressed to Sh. D.K. Goel stating wherein that he had paid Rs.12,26,800/- and balance payable is Rs.2,00,000/-, Exhibit PW-128/13, (ii) Letter dated 05.08.2003 of the Society calling upon the accused to take possession of Flat on production of No Dues Certificate, Exhibit PW-128/18 and (iii) No Dues Certificate dated 05.08.2003, Exhibit PW-128/19.

63 PW-129 Dy. S.P. Raj Singh:- This witness was IO of the case for some time and deposed about the investigation conducted by him.

64 PW-130 Dy. S.P. V.M. Mittal:- This witness was the Investigating Officer of the case and had filed the chargesheet. He proved documents Exhibit PW-130/1 to Exhibit PW-130/4. The witness was cross examined at length. During his cross-examination, the witness deposed that he had collected document Exhibit PW 33/D1 (Krishna Dairy partnership with Sh. Mangat Ram Garg) but had not relied upon this document as it was not found relevant. There was no clarity in the document regarding the partnership and the purpose for which the amount stated therein was given to Smt. Sangeeta Goel. He deposed that during investigation he did not find any partnership in the name of Krishna Dairy with accused Smt. Sangeeta Goel as partner to be in existence. The witness deposed that he had not considered receipt Exhibit PW 33/D3 for a sum of Rs.34,50,000/- for the sale of Flat No. 159, Munirka Vihar, New Delhi as the sale deed of this flat was for lesser amount and the purchaser had categorically denied paying more than what was mentioned in the sale deed. He deposed that he had not examined Shri Sunil Chadda, Broker of this deal. He also deposed that it was not in his knowledge that this flat also had a servant quarter which was not sold to Shri Ramesh Sharma or it was sold to Shri Harish Chander for an amount of Rs.1,93,750/-. The witness denied that the sale consideration of Flat No. C-1/161, Eastern Apartment, Mayur Vihar, New Delhi was Rs.12,00,000/- and not Rs.11,00,000/-. The witness deposed that he did not consider the amount of Rs.20,50,000/- mentioned in Balance Sheet Exhibit PW-20/10 (D-96) under the Heading Temporary Membership Bookings as there was no such record to corroborate the same. The witness denied the suggestion that the accused had purchased Plot No. 1297, Saraswati Housing Cooperative Society, Gurgaon for a sum of

Rs.11,97,000/- only. The witness was given a suggestion that a sum of Rs.5,03,760/- was credited to the account of accused Shri D.K. Goel as per page 40 of Exhibit PW 19/1 towards allowances/pay from his department but the witness deposed that he had not gone through each bank entry. For coming to the conclusion about salary and allowances of the accused, he had relied upon Statement of Salary and Allowances provided by the employer of the accused. At some point, the witness admitted some inadvertent error for not giving credit of income to the accused such as Exhibit A168 where there is a mention of a sum of Rs.40,000/- as security given to Smt. Sangeeta Goel. The witness also admitted that he has not specifically investigated any entry pointed out in Exhibit PW 28/13 (D-64) and Exhibit PW 31/2 (D-58) which are Statement of Account of accused Bank Account at Syndicate Bank and Bank of India. The witness deposed that he had given credit of gift of Rs.7,95,000/- from Shri Sanjay Gupta to Smt. Sangeeta Goel on the basis of letter of Shri Sanjay Gupta written to this witness. He deposed that Shri D.K. Goel in the statement of defence given to his department had only claimed a gift of Rs.4,55,000/- from his brother-in-law, Shri Sanjay Gupta. The witness also deposed that he had not verified whether Flat No. A-605, Karor Apartments, Dwarka was let out by the accused Shri D.K. Goel to M/s. Reliance Infocom and what was the income from such tenancy. The witness deposed that he had not verified the entries of Rs.7,000/- per month in the Statement of Account Exhibit PW 31/1. The witness also deposed that he did not enquire entries in Statement of Account Exhibit PW 28/13 which reflects credit of money on maturity of FDRs. Similarly, he also deposed that he had not investigated entries at point Z and Z1 in Exhibit PW 19/1 (D-57). The witness also deposed that he did not enquire whether there was any tenant in the flat of accused Shri D.K. Goel at East End Apartments,

Mayur Vihar, New Delhi. The witness also deposed that he has not given credit of Rs.5,25,000/- for the sale of Shop No. 3, Odion Plaza, Sector-6, Dwarka, New Delhi in the name of Smt. Sangeeta Goel.

65 PW-131 Shri N.K. Choudhary:- This witness was the General Manager, India Government Mint, Hyderabad. He had sent salary and emoluments received by Shri D.K. Goel from January 1991 to July 1991, Exhibit PW131/1 and PW131/2 (D-118, page 21 and 22).

66 PW-135 Shri Ajai Kumar Singh, Under Secretary, DOPT, Government of India, New Delhi:- This witness had proved the Sanction Order given for prosecution of accused as Exhibit PW-135/A.

67 The statement of the accused was recorded under Section 313 of Cr. P.C. and all the evidence against him was put to him.

68 Defence Evidence:- The accused examined 32 witnesses in his defence.

69 DW-1 Sh. Sanjay Gupta:- The first witness, DW-1 Shri Sanjay Gupta is brother-in-law of Shri D.K. Goel and deposed that he had gifted many appliances like air-conditioners, refrigerator, washing machine worth Rs.60,000/- to his sister Smt. Sangeeta Goel. He deposed that he had gifted a sum of Rs.15,00,000/- to his sister Smt. Sangeeta Goel as per 12 cheques as mentioned in his statement. These cheques are part of D-139. He also deposed that he had gifted his sister a sum of Rs.9,00,000/- through cheque, which are already on record. The witness stated that he has another sister but he had not produced any document in the court to show that he had also gifted her gifts/cash commensurate to the gifts/cash given to Smt. Sangeeta Goel. The witness denied a suggestion that the cheque amount was given to him by Shri D.K. Goel and thereafter he had issued cheques in the name of his sister Smt. Sangeeta Goel.

70 DW-2 Smt. Veena Gupta:- This witness is the mother of Smt. Sangeeta Goel. She deposed that she had given a sum of Rs.2,00,000/- to Smt. Sangeeta Goel at the time of marriage of her daughter Kumari Sanyogita Goel and had also gifted a sum of Rs.52,000/- for the purchase of a motorcycle to her grandson Shri Kunal Goel. She deposed that she had gifted a sum of Rs.2,20,000/- by way of a cheque to Smt. Sangeeta Goel and also gifted some jewellery amounting to Rs.2,00,000/- on different occasions to her daughter.

71 DW-3 Ms. Mina Sood:- This witness was the Treasurer of Saraswati Kunj Cooperative House Building Society Ltd, Gurgaon and deposed that she had made payment of Rs.30,000 – Rs.32,000 to the accused Shri D.K. Goel for patrol charges as he was Chairman of the said Society. However, she could not produce any document in support of this payment to Shri D.K. Goel.

72 DW-4 Shri Dinesh Sood:- This witness deposed that he had invested a sum of Rs.20,000/- in M/s. KABA Club Royale Lagoon. Similar statements were made by **DW-6 Shri Ajay Tehlan, DW-7 Shri Suresh Gupta, DW-8 Shri Gurdev Singh Garewal, DW-10, Shri Ram Niwas Bansal, DW-11 Shri Om Prakash Kataria, DW-15 Shri Uma Dutt Kaushik and DW-17 Sh.Kumresh Kumar Jain.**

73 DW-5 Shri Mukesh Kumar:- This witness deposed about sale and purchase of shops of Odeon Builders Private Ltd. by Smt. Sangeeta Goel.

74 DW-9 Smt. Kamlesh Gupta:- This witness deposed about sale of a shop at Odeon Plaza, Sector-6, Dwarka, Delhi by Smt. Sangeeta Goel to her for a sum of Rs. 8,37,000.

75 DW-12 Shri Shivji Prasad, Sub- Postmaster, New Delhi:- This witness proved a certificate given by him to Smt. Sangeeta Goel as

Exhibit DW-12/A and the permission for issuing the certificate was proved as Exhibit DW-12/B.

76 DW-13 Ms Deepali Behl:- This witness from Bank of India proved certificate Exhibit DW-13/A.

77 DW-14 Ms. Hanshikha Yadav:- This witness from Bank of India proved the passbook in the name of Shri D.K. Goel and Smt. Sangeeta Goel as Exhibit DW-14/A.

78 DW-16 Shri Rajan Ramanee:- This witness deposed that he had purchased Shop No. 259, Vardhman Crowne Plaza, Sector-19, Dwarka, New Delhi from the accused Shri D.K. Goel for a sum of Rs. 2,05,000. He deposed that he cannot find the cheque number through which this payment was given to the accused Shri D.K. Goel due to passage of time.

79 DW-18 Shri A.K. Poorbe:- This witness from Indian Bank proved Statement of Account No. 993006921 of M/s. KABA as Exhibit DW-18/1.

80 DW-19 Shri O.S. Parmar:- This witness was a property dealer at Munirka Vihar, New Delhi. He deposed that the value of the flat of the accused Shri D.K. Goel at Munirka Vihar in the year 1997 was between Rs.35,00,000/- to Rs.40,00,000/-.

81 DW-20 Shri Kapil Kumar:- This witness from Syndicate Bank proved certified copy of passbook in the name of both the accused and their son and daughter for Account No. SB-64087 as Exhibit DW 20/1.

82 DW-21 Shri Sohan Lal:- This witness deposed that he had purchased car DL 3 CT 2063 from the daughter of Shri D.K. Goel on 25.08.2004 for a sum of Rs.1,10,000/- which was given by way of Demand Draft No. 000655 dated 25.08.2004 in favour of Smt. Sanyogita Goel. The receipt given by Smt. Sanyogita Goel was proved as Exhibit DW-21/1 and

passbook showing the relevant entry of the Demand Draft was proved as Exhibit DW 21/2.

83 DW-22 Shri Sunil Kumar:- This witness deposed that he had purchased a car bearing Registration No. TN 07 8254 from Shri D.K. Goel for a sum of Rs.30,000/- in the year 2002. He deposed that this payment was given in cash and the registration number of the vehicle was not got transferred by him in his name and the vehicle was sold in junk.

84 DW-23:- The record which was to be produced by DW-23 was weeded out.

85 DW-24 Shri Naresh Kumar Meena:- This witness from Bank of India proved deposit slips in the account of M/s KABA, Smt. Sangeeta Goel and Shri D.K. Goel as Exhibit DW 24/1 to DW 24/7.

86 DW-25 Shri Chander Jeet Yadav, Branch Manager, Gurgaon Central cooperative Bank, Haryana:- This witness proved Ledger Account of M/s. KABA as Exhibit DW 25/1.

87 DW-26 Shri B.N. Srivastava:- This witness is handwriting expert and had examined the handwritten receipt for Rs.1,00,000/- dated 12.04.1997 and Agreement to Sell dated 20.05.1997 and had opined that the same are written by one and the same person.

88 DW-27 Shri Ashok Kumar Sharma:- This witness had valued the Flat of the accused at Munirka Vihar, New Delhi at Rs.38,10,240/-.

89 DW-28 Shri Donald Fernandes:- This witness from Escorts Finance Ltd. produced the record of FDRs in the name of Smt. Sangeeta Goel, Exhibit DW 28/1 and deposed that the company had given interest of Rs.91,541/- to her.

90 DW-29 Shri Suresh Kumar:- This witness had also valued the flat at Munirka Vihar, New Delhi in the year 1997 worth Rs.33,37,000/-.

91 DW-30 Shri Yogesh Thakral:- This witness proved Agreement to Sell, General Power of Attorney of servant quarter of the flat of accused at Munirka Vihar, New Delhi as Exhibit DW 30/1 and Exhibit DW 30/2 respectively.

92 DW-31 Shri Pramod Kumar:- This witness from ICICI Bank produced statements of accounts of the bank accounts of Shri Sanjay Gupta and Miss Ruchi Gupta as Exhibit DW 31/12 and Exhibit DW 31/4. However, the statements were not accompanied with certificate under Banker's Books Evidence Act or certificate under Section 65B of the Indian Evidence Act.

93 DW-32 Shri Vinod Kumar:- This witness was the Manager (Administration) of East End Apartments Co-operative Group Housing Society Ltd. and proved record of maintenance of Flat No. C-161 as Exhibit DW 32/2

94 Points for determination:- In a prosecution case under Section 13 (1) (e) of the Prevention of Corruption Act, 1988 or in prosecution for Disproportionate Assets Case, the points for determination are (i) whether the prosecution has correctly assessed the assets of the accused before the check period? (ii) whether the prosecution has correctly assessed the income of the accused during the check period? (iii) whether the prosecution has correctly assessed the expenditure of the accused during the check period? (iv) whether the prosecution has correctly assessed the assets of the accused at the end of check period? and (v) whether there are any disproportionate assets and if yes, percentage thereof? Since, there is charge under Section 109 of IPC against Accused No. 2 Smt. Sangeeta Goel, the last point for determination would be whether Smt. Sangeeta Goel is abettor of offence by Accused No. 1 Sh. D.K. Goel under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988?

95 As per prosecution, the assets of the accused before the check period were NIL. As per detailed Final Written Arguments filed on behalf of the accused persons, the assets of Shri D.K. Goel, Smt. Sangeeta Goel and M/s. KABA were also NIL. Therefore, there is no dispute in this regard.

96 The learned counsel has addressed arguments separating the case of Shri D.K. Goel, Smt. Sangeeta Goel and M/s. KABA and has calculated final calculation in Chapter 4 of the written arguments to show that there are no disproportionate assets.

97 In Chapter 1, the submissions are with regard to the assets of Shri D.K. Goel. The accused has given calculation of DA as per CBI version as well as version of the accused as under:-

(1)	<u>Calculation of D.A. (as per C.B.I. Version)</u> <u>(in respect of Shri. D.K.Goel)</u>		Amount (in Rs.)
	A.	Assets at beginning of check period	NIL
	B.	Assets at the end of check period	65,52,685.00
		Immovable Assets Movable Assets – (NIL taken into account of Smt. Sangeeta Goel)	NIL
	Total		65,52,685.00
	C.	Income	60,34,696.00
	D.	Expenditure (Counted in Smt. Sangeeta Goel's calculation sheet)	NIL
	E.	DA (B-A+D-C)	65,52,685.00 60,34,696.00
Total:		= 5,17,989.00	
(2)	Correct calculation of DA (after taking into consideration income not included by C.B.I., however, established during prosecution/defence evidence before the proceedings of this Hon'ble Court.)		
	A.	Assets at the beginning of check period	NIL

B.	Assets at the end of check period Immovable Assets (Annexure-A) Movable Assets	63,75,885.00
C.	Income Additional income (as per details in Annexure-B)	60,34,696.00 12,46,688.00
Total Income:		72,81,384.00
D.	Expenditure (Counted in Smt. Sangeeta Goel's calculation sheet)	NIL
E.	DA (B-A+D-C) (B)	63,75,885.00
	(B-A)	= 63,75,885.00
	(B-A+D)	63,75,885.00
	DA (B-A+D-C) (63,75,885.00 – 72,81,384.00) = 9,05,499.00	= (-) 9,05,499.00
Conclusion	(The income is more than by 9,05,499.00, as such, D.A. is less than Zero, i.e. there are no disproportionate assets. (This surplus income is carried forward in income of Smt. Sangeeta Goel).	

98 A perusal of the above shows that there is no dispute between CBI and the accused so far as assets at the beginning of check period in respect of Shri D.K. Goel is concerned. The assets at the beginning of check period in the name of Shri D.K. Goel as per CBI and as per the accused are Nil. The difference is on two points. First, the case of the accused is that the assets in his name at the end of check period were not worth Rs.65,52,685/- but were worth Rs.63,75,085/-. Second, besides income of Rs.60,34,696/-, the accused had additional income of Rs.12,46,688/-. Therefore, according to accused, DA in respect of Shri D.K. Goel is not Rs.5,17,989/- as alleged by CBI but he had more income than the assets to an extent of Rs.9,05,499/- and this surplus income is carried forward in income of Smt. Sangeeta Goel.

99 The **first contention** of the accused is that Flat No. A-605 in Karor Society, Dwarka, New Delhi in the name of Shri D.K. Goel is not worth

Rs.14,26,800/- but its cost was Rs.12,50,000/- only. Therefore, the excess calculation by CBI is stated to be Rs.1,76,800/-.

100 In support of their submissions, the accused are relying on the evidence of PW-15 Shri S.S. Bora who has been the Treasurer and Secretary of the society. A perusal of the evidence of this witness and the documents on record shows that four figures are appearing towards the cost of flat in question. The lowest figure is Rs.12,50,000/- on the basis of a photocopy handed over by the accused to the witness at the time of his cross examination, Exhibit PW-15/D1. The second figure is Rs.13,47,550/- on the basis of Audit Report for the year 2003-04, Exhibit PW 15/2. The Third figure is Rs.13,83,150/- as per letter dated 12.10.2010 written by this witness, Exhibit PW 15/4 (D-6). The Fourth figure is mentioned in letter dated 30.11.2002, Exhibit PW-128/13 which is also part of D-5 as per which the accused had made payment of Rs.12,00,000/- and there was a balance of Rs.2,26,800/-. Vide letter dated 05.08.2003, Exhibit PW-128/18, the Society had advised the accused to take possession of the Flat subject to furnishing No Dues Certificate. The No Dues Certificate is also dated 05.08.2003, Exhibit PW-128/19. It shows the accused had paid entire demand of Rs.14,26,800/- and was given the NOC for taking possession of the Flat. Therefore, the cost of this Flat is correctly assessed by CBI.

101 Next, in support of submissions that the accused Shri D.K. Goel also had additional income of Rs.12,46,688/- during the check period which CBI has not taken into account, the accused has filed Annexure-B in the written arguments which is as under:-

Annexure-B**ADDITIONAL INCOME OF SH. D.K. GOEL (NOT INCLUDED BY C.B.I.)**

Sl. No.	Particulars	Amount (Rs.)	Documentary Evidence
2	A payment/income of Rs.5,03,760.00 vide Entry No.694 dated 19.03.2009 (towards pay & allowances)	5,03,760.00	Exh. PW-09/D1 & Exh.PW-130
3	Income from selling of Flat No.C-161, East End Apartment Flat, Mayur Vihar, Chilla, New Delhi-92 (Short calculation by CBI Rs.12,00,000.00 – Rs.11,00,000.00 = Rs.1,00,000.00	1,00,000.00	Exh.PW-33/D3, Exh.PW-23 & Exh.PW-130
4	Selling of Shop No.259, 2 nd Floor, Vardhman Crown Mall, Dwarka, New Delhi-110075 to Sh. Rajan Ramanee	1,00,000.00	Exh. PW-17/DF & Exh.DW-16/A
5	Selling of Maruti Zen Car to Sh. S.L. Arora	1,10,000.00	Exh.PW-28/ Exh.PW-31, Exh.DW-21 Exh.DW-21/1& Exh.DW-21/2
6	Rental income from flat No.A-605, Karor Society, Sector-6, Dwarka, N.Delhi-75	49,933.00	Exh.PW-31/1 & Exh.PW-130
7	Income from Security Deposit of flat No. A-605, Karor Society, Sector-6, Dwarka, N.Delhi-75	39,000.00	Exh.PW-99/1. Exh.PW-99/2, & Exh.PW-99/3
8	Petrol reimbursement charges from Saraswati Kunj Society, Gurgaon	33,056.00	Exh. PW-19/1 (D-57) Exh.PW-130) Exh.DW-3

9	Selling of Maruti 800 Car to Sh. Sunil Kumar @ Kale	30,000.00	Exh.PW-31/ Exh.DW-22
10	Income to Sh. D.K. Goel on account of lesser amount paid for vehicle No.DL 3 CAP 0502 (Santro Car) (3,84,337 – 3,65,898.00 = 18,439.00)	18,439.00	Exh.PW-27/ Exh.PW-29/
11	Rental income from Flat No. C-161, East End Apartment, Mayur Vihar, New Delhi. (30/04/1991 to 08/09/1999 for 100 months @ Rs.2,300/- per month – Rs.2,30,000/-)	2,30,000.00	Exh.PW-130 Exh.DW-32/1 & Exh.DW-32/2 (Colly)
Total:			12,46,688.00

102 The **second submission** of the accused is for claiming additional income of Rs.5,03,760/- given to him on 19.03.2009. Reliance is placed on evidence of PW-9 Shri Pritam Singh, who was the Assistant Commissioner and DDO, Department of Land Resources, Government of India, New Delhi. However, a perusal of document produced by this witness which is part of Exhibit PW-9/D3, Sanction Order (Additional Documents, Page 23) shows that this amount was given to the accused to attend Foreign Training. Therefore, this amount was towards the actual expenses to be incurred by the accused Shri D.K. Goel during Foreign Training and not part of any income. Therefore, this is not part of additional income of the accused Shri D.K. Goel.

103 The **third submission** of the accused for seeking additional income of Rs.1,00,000/- is that Flat No. C-161, East End Apartment, Mayur Vihar, New Delhi was not sold for Rs.11,00,000/- but was sold for Rs.12,00,000/-. This flat was purchased by the accused during check period for a sum of Rs.2,03,000/- and as per CBI, it was sold for a sum

of Rs.11,00,000 and a sum of of Rs.8,97,000/- was added in the income of the accused. Accused is relying on 3 credit entries of Rs.10,000/-, Rs.20,000/- and Rs.70,000/- in his Account No. 64087 of the Syndicate Bank for claiming this additional income, Exhibit DW-20/1. The accused is also relying on Exhibit PW 33/-3 (Additional Document-3, Page 125) where there are two photocopies of Cheque No. 364433 and 226873 for a sum of Rs.10,000/- and Rs.20,000/- respectively. These two cheques were seized from the premises of the accused on the date of search. For reasons best known to CBI and the accused, none of them examined the purchaser of this flat Shri Rakesh Bharat. PW 23 Shri Pratap Chakravarty, Ex-Secretary of the society has proved as Exhibit PW 23/4 the sale documents of this flat (D-125). As per Agreement to Sell and Receipts, the sale consideration of this flat is Rs.11,00,000/- and not Rs.12,00,000/-. Under Section 91 of the Indian Evidence Act, 1872, only the document (Agreement to Sell in this case) can be given in proof of the terms of such contract, grant or other disposition of property. Therefore, the submission of the accused that he had sold this flat for a sum of Rs.12,00,000/- and not Rs.11,00,000/- is rejected.

104 The **fourth submission** of the accused for claiming additional income of Rs.1,00,000/- is that he had sold Shop No. 259, 2nd Floor, Vardhman Crown Mall, Dwarka, New Delhi to DW-16 Shri Rajan Ramanee for a sum of Rs.2,05,000/-. When DW-16 Shri Rajan Ramanee entered the witness box, he was not remembering the cheque number as per which this payment was made by him to the accused. He deposed that he cannot find out the cheque number as the matter was old. He could not tell to whom he has further sold this shop. The accused is relying on Exhibit PW 19/1 (D-57, page 16) which is statement of account of Axis Bank to show credit entry of Rs.2,05,000/- in the account of accused Shri D.K. Goel on 07.12.2005. However, in this statement of

account, the cheque number is not mentioned. Similarly, the accused has also not mentioned any cheque number at page 11 of the written submissions filed by him and the cheque number has been left blank. No sale document has been proved on record by the accused as the witness DW 16 deposed that the sale papers in his favour given to him by the accused Shri D.K. Goel have been further handed over to the person to whom he sold the shop. It is already noted above that DW 16 deposed that he cannot tell to whom he had sold the above-mentioned shop. Moreover, to claim this additional income, the accused had to show that he was the owner of the shop in the first instance. Even assuming everything what the accused is submitting to be true, the accused will gain nothing because if a sum of Rs.1,05,000/- (purchase price and hence part of expenses) is included in the expenses of the accused for purchasing this shop, the gain of Rs.1,00,000/- by sale of this shop shall be nullified and rather an extra amount of Rs.5,000/- will be added in the income of the accused. Resultantly, the submission of the accused for seeking additional income of Rs.1,00,000/- is rejected.

105 The **fifth point** for claiming additional income of Rs.1,10,000/- is that the accused had sold Maruti Zen car DL-3CT-2062 to Shri Sohan Lal, DW-21 on 25.08.2004 and had received a demand draft bearing no. 000655 for a sum of Rs.1,10,000/- in favour of Smt. Sanyogita Goel. Reliance is placed on passbook of DW-21 Sohan Lal, Exhibit DW-21/2 and passbook of the accused Exhibit PW-28/13 to show that this amount was debited in the account of DW-21 Sohan Lal and was credited in the account of the accused. With regard to this article also, first of all the accused has to prove that he was the owner of this car in question. He should have brought on record the cost price of this car and if the same was purchased within the check period, then the purchase price has to be added in the expenses of the accused and only then the benefit of

this sum of Rs.1,10,000/- could have been given to him. In the absence of this evidence, no benefit can be given to the accused for this additional income of Rs.1,10,000/- as claimed by him.

106 The **sixth submission** of the accused for claiming additional income of Rs.49,933/- is that he had rented out Flat No. A- 605, Karor Society, Sector-6, Dwarka, New Delhi to M/s. Reliance Infocom at the rate of Rs.7,000/- per month. The accused is relying on Exhibit PW 31/1 (D-58, Page 10 and 11) which is the statement of account of the accused in Syndicate Bank, South Block, Delhi where there is credit entry of Rs.7,933/- and 6 credit entries of Rs.7,000/- from October 2003 to May 2004. The Rent Agreement between accused and Reliance Infocom is filed by CBI as D-6. CBI has also filed letter dated 01.01.2004 from the Authorized Representative of Reliance Infocom that they will vacate the Flat w.e.f. 31.01.2004. **Therefore, while accepting sixth submission of accused, he is granted benefit of additional income of Rs.49,933/-.**

107 The **seventh submission** of the accused for claiming additional income of Rs.39,000/- is that he had rented out Flat No. A- 605, Karor Society, Sector-6, Dwarka, New Delhi to PW-99 Shri Jeetendra Malhotra at the rate of Rs.15,000/- per month with effect from 01.08.2008. Later on, the rent was increased to Rs.16,000/- per month and finally to Rs.19,000/- per month and the security amount was Rs.39,000/-. The accused is also relying on Exhibit PW-31/4 (D-58) where there is a credit entry of Rs.30,000/- which was deposited in cash. Since the accused has proved that he had received a security amount of Rs.30,000/- in cash from the tenant for letting out the flat mentioned above, **he is entitled to benefit of additional income of Rs.30,000/-.**

108 The **eighth submission** of the accused for claiming additional income of Rs.33,056/- is that he had received this amount being the

President of Saraswati Kunj Cooperative Society from the Treasurer of that Society, DW-3 Ms. Meena Sood. The accused is also relying on Exhibit PW 19/1, D-57 which is the Statement of Account of the accused with Axis Bank. The Statement of Account shows credit entry of Rs.10,875/- in the account on 22.01.2009 and credit entry of Rs.22,181/- in the account on 19.02.2009. The submission of the accused is that the second credit entry is with regard to cheque number 306131. However, no cheque number is mentioned in the Statement of Account. The witness relied on by the accused, DW-3 Ms. Meena Sood has not mentioned the date, month or year of payment or the cheque number of payments. There is no record of the society to show these payments to the accused. Therefore, the accused is not entitled to the benefit of additional income of Rs.33,056/- as claimed by him.

109 The **ninth submission** of the accused for claiming additional income of Rs.30,000/- is that he had received this amount in cash from DW-22 Shri Sunil Kumar for selling Maruti car TN 07-8254 in the year 2002. The accused is relying on Exhibit PW 31/4 which is the Statement of Account of the accused being Account No. 37081 with Syndicate Bank, South Block, New Delhi where there is a credit entry in cash for Rs.30,000/- on 04.03.2002. There is no evidence that the accused was the owner of this car. The accused has not disclosed when he purchased this car and the cost of the car. Before considering giving benefit of sale of this car, first the purchase price of this car has to be included in the expenses of the accused. In the absence of evidence with regard to ownership of the car and in the absence of any sale document with DW-20 Shri Sunil Kumar, no benefit of additional income can be given to the accused.

110 The **tenth submission** of the accused for claiming additional income of Rs.18,439/- is that he had purchased vehicle number DL

3CAP 0502 (Santro car) for a sum of Rs.3,65,898/- and not Rs.3,84,337 and therefore he is entitled to additional income of Rs.18,439/-. PW-29 Shri Sachit Taneja from ICICI Bank has deposed that the accused had taken a loan of Rs.3,26,000/- for purchase of this car. He deposed that the purchaser had paid margin money of Rs.33,783/- and registration charges were Rs.6,115/-. The witness also deposed that the loan was repaid and a total sum of Rs.3,96,362/- was paid by the accused. CBI has already taken into account a sum of Rs.55,879/- towards interest paid to ICICI Bank against auto loan. As per chargesheet, the sales invoice of Hyundai Suhrit shows that the cost of vehicle was Rs.3,84,337/-. No witness was examined from Hyundai Suhrit. However, there is a price list for the Delhi with effect from 01.12.2004 indicating the cost of vehicles. This price list shows the cost of the vehicle is Rs.3,84,337/-. PW-27 Sh. Anil Kumar has proved the invoice of this car as Exhibit PW-27/7 (D-73) as per which, the cost of this car is Rs.3,83,337/-. Therefore, CBI has correctly assessed the cost of this vehicle.

111 In the end, the **eleventh submission** of the accused for additional income is that he had received a rent of Rs.2,300/- per month from July 1994 till August 1999 i.e. for 62 months for Flat No. C-161, East End Apartments, Mayur Vihar, New Delhi and thereby received a sum of Rs.1,42,600/-. Accused has relied on evidence of PW-130 Shri V.M Mittal, IO of the case recorded on 02.09.2016 who has deposed that he had not tried to find out whether there was any tenant in the property as the same was already sold at the time of investigation. The witness also deposed that the accused did not provide any information in this regard. No suggestion was given to the witness that the accused had provided information of tenancy of this flat in question to him during investigation. If the property was under tenancy, the accused would have indicated the

same to the IO of the case during investigation. The accused has not examined the tenant. The accused has not placed on record any rent agreement. Even the name of the tenant is not mentioned completely and is mentioned only as Mr. Bhatnagar. The accused is relying on passbook of Bank of India, where the accused had Account No. 68087 to show some of these credit entries. These are mere credit entries and they are in no way connected with the payment of rent of the house in question. Therefore, this court is not inclined to grant relief of Rs. 1,42,600/- or any other amount for rent for Flat No. C-161, East End Apartments, Mayur Vihar, New Delhi.

112 The conclusion of submissions of accused made in Chapter 1 of the written arguments is that the **disproportionate assets of the accused stand reduced to an extent of Rs.79,933/-** as he is given the benefit of additional income of Rs.49,933/- as per sixth submission of the accused and benefit of additional income of Rs.30,000/- as per seventh submission of the accused noted above.

113 The accused has summarised at page 23 of the written arguments, the DA as per CBI version in respect of Smt. Sangeeta Goel and correct calculation of DA after taking into consideration income not included by CBI as under:-

(1)	<u>Calculation of D.A. (as per C.B.I. Version)</u> <u>(in respect of Smt. Sangeeta Goel)</u>	Amount (in Rs.)
A.	Assets at beginning of check period	- NIL -
B.	Assets at the end of check period	
	Immovable Assets	29,92,961.00
	Movable Assets	19,67,989.00
	Total	49,60,950.00
C.	Income (29,25,969.00 +52,000.00 = 29,77,969.00)	29,77,969.00
D.	Expenditure (61,09,416.00–27,05,201.00=34,04,215.00)	34,04,215.00

	E.	DA (B-A+D-C)		
			(B-A)	49,60,950.00
			(D)	(+)34,04,215.00
			(B-A+D)	83,65,165.00
		DA(B-A+D-C)		
		(Rs.83,65.165.00-29,77,969.00=53,87,196.00)		53,87,196.00
(2)	Correct calculation of DA (after taking into consideration income not included by C.B.I., however, established during prosecution/defence evidence before the proceedings of this Hon'ble Court.)			
	A.	Assets at the beginning of check period		- NIL -
	B.	Assets at the end of check period Immovable Assets (Annexure-A) Movable Assets		45,19,390.00
	C.	Income Additional income - (as per details in Annexure-B)		29,77,969.00 70,17,610.10
	Total Income:			99,95,579.10
	D.	Expenditure [34,04,215.00 – (3,38,787.00 + 1,70,566.00 = 5,09,353.00)] = 28,94,862.00 (Annexure-C) (Liability towards interest reduced by Rs.1,70,566.00, at the framing of charge stage by this Hon'ble Court) on 01.04.2015)		28,94,862.00
	E.	DA (B-A+D-C)		45,19,390.00
		(B-A)		(+) 28,94,862.00
			(D)	74,14,252.00
			(B-A+D)	
		DA (B-A+D-C)		
		(74,14,252.00 – 99,95,579.10 = (-) 25,81,327.10		= (-)25,81,327.10
Conclusion	(The income is more than by Rs. (-) 25,81,327.10 , as such, D.A. is less than Zero, i.e. there are no disproportionate assets. (This income is carried forward in the income of KABA)			

114 The **first submission** of the accused is that the purchase price of Plot No. 1297, Saraswati Kunj Society in the name of Smt. Sangeeta Goel is not Rs.17,16,560/- but Rs.13,25,000/- and thereby the accused is seeking reduction of expenses by Rs.3,91,560/-. The submissions of

CBI in this regard are noted in the chargesheet at page 5 and 6 as under:-

"It is revealed that Smt. Sangeeta Goel W/o accused DK Goel became member of Saraswati Kunj CHBS Gurgaon on 30.12.2003 vide membership No. 1777 and she was allotted plot No. 1297 admeasuring 502 square feet yard in the said society. The Sale Deed in her name was registered on 14/05/2004 for a sum of Rs.14,30,700/- as cost of this plot. She has also paid a stamp duty of Rs.85,860/- as registration charges. It is also revealed that later on in the year 2007, she has also paid an amount of Rs.2,00,000/- towards infrastructure development charges. Therefore, during the check period, she has paid a total amount of Rs.17,16,560/- including registration charges towards this plot. In March 2008 she requested for change of name of membership held by her in favour of her daughter Ms. Sanyogita Goel that was accepted by Assistant Registrar CGHS and membership was transferred in favour of her daughter."

115 The accused is relying on evidence of PW-18 Shri Yogendra Aggarwal, Audit Officer, Cooperative Societies, Civil Lines, Gurgaon who deposed that the passbook of the member Smt. Sangeeta Goel, Exhibit PW 18/1 (D-8) shows that she had made a payment of Rs.15,25,000/- to the society for the purchase of this plot. However, he volunteered that the record was later on scrutinised and it was found that the cheque of Rs.2,00,000/- issued by the member had bounced and thus the actual payment by Smt. Sangeeta Goel was Rs.13,25,200/- only. This is the basis of claim of accused that the cost of this plot is Rs.13,25,000/- and not Rs.17,16,560/-. However, before the recording of evidence commenced, the accused had already admitted the Sale Deed (Part of D-8) as Exhibit A-193 which shows that the accused paid Rs.14,30,700/- for purchase of this plot and additionally paid a sum of Rs.85,860/- for the execution of Sale Deed. Once the accused has admitted the sale deed, Exhibit A-193 now he cannot argue to the contrary. Moreover, PW-

18 has also deposed during his cross-examination that the society later on had claimed the amount from the member. The learned Senior PP for CBI pointed out two receipts of Rs.1,00,000/- each dated 23.12.2007 and 29.12.2007 for infrastructure development which were also admitted by the accused as Exhibit A-188 & Exhibit A-189 respectively. Therefore, the cost of the plot shall be considered as Rs.17,16,560/- only.

116 The **second submission** of the accused is that as per CBI the accused had purchased Stall No. 1, Pocket D and E, LSC Sarita Vihar, New Delhi in the name of Smt. Sangeeta Goel for a sum of Rs.50,000/-. The argument is that the prosecution sought to prove this allegation by examining witness Shri S.K. Behl. However, the witness was dropped in as much as neither D-10 nor D-11 mentioned the name of Smt. Sangeeta Goel. As per these two documents, this stall was allotted in favour of Ms. Neena Rani. Therefore, the argument is not to include this asset in the assets of the accused. However, Ld. Sr. PP for CBI submitted that as per Exhibit PW-3/A (D-115, Page 55) which is the statement of immovable property for the year 2008, Sr. No. 8, the accused himself had mentioned that he has purchased this stall for Rs.50,000/-. **Therefore, CBI has correctly considered this asset as part of assets of the accused.**

117 The **third submission** of the accused is that Flat No. 159, Munirka Vihar, New Delhi was not sold for Rs.10,00,000/- but it was sold for Rs.34,50,000/- and therefore the accused is entitled to reduction of DA to an extent of Rs.24,50,000/-. The accused is relying on Exhibit PW 33/D3 which is a receipt to show that this flat was sold for an amount of Rs.34,50,000/-. However, the evidence of purchaser of this flat, PW-106 Shri Ramesh Sharma is categorical that he has purchased this flat only for a sum of Rs.10,00,000/-. He has denied a suggestion that the sale consideration was Rs.33,50,000/-. He has also denied receipt Exhibit

PW-33/D3. The accused is relying on the evidence of valuers to show that the cost of this flat at the time of its sale was around Rs.33,00,000/- – Rs.34,00,000/-. However, in the light of evidence of the purchaser PW-106 Shri Ramesh Sharma, the accused is not entitled to argue that the sale price of this flat was Rs.34,50,000/-.

118 The **fourth submission** of the accused is that there was a servant quarter attached with Flat No.159, Munirka Vihar, New Delhi and it was not sold to PW-106 Shri Ramesh Sharma as it was already sold to somebody else. This version of the accused is also supported by the evidence of PW-106 Shri Ramesh Sharma. The IO of the case PW-130 Shri V.M. Mittal was given a suggestion that the accused had sold the servant quarter for a sum of Rs.1,93,750/- to Shri Harish Chander. Now, on the basis of the reports of some valuers, the accused is arguing that he be given benefit of Rs.3,00,000/- for the sale of this servant quarter. There is not an iota of evidence in this regard to show that the servant quarter was sold for a sum of Rs.1,93,750/- to Shri Harish Chander. This version has not been supported by DW-19 Shri O.S. Parmar who was the property dealer through whom the servant quarter was sold by Shri Harish Chander to Shri R.P. Thukral. Even the son of said Shri R.P. Thukral, DW-30 Shri Yogesh Thakral has not supported the accused by deposing that the accused had sold servant quarter to Shri Harish Chand for a sum of Rs.1,93,750/-. However, the accused has shown on record that the servant quarter of the flat in question was not sold to PW-106 Shri Ramesh Sharma as it was already sold. Exhibit DW-30/2 is the agreement to sell between Sh. Harish Chander and Sh. R.P. Thukral with regard to servant quarter for a sum of Rs.80,000/-. It mentions that Sh. Harish Kumar had purchased this quarter from Sh. D.K.Goel. **Therefore, by some guess work, the accused is given benefit of Rs.60,000/- for the sale of this servant quarter.**

119 The **fifth and sixth submissions** of the accused are that she had two shops purchased from M/s. Odeon Builders Private Ltd. She claims that she had sold these shops at a profit of Rs.4,16,160/- and Rs.6,79,146/-. Accused has not led any evidence to show that she was owner of these two shops of M/s. Odeon Builders Private Limited. She has relied on evidence of DW-5 Shri Mukesh Kumar who was an ex-employee of M/s. Odeon Builders Private Limited. No records were summoned or proved from M/s. Odeon Builders Private Limited. The accused is also relying on the evidence of DW-9 Smt. Kamlesh Goel who deposed that she had purchased one of the two shops from Smt. Sangeeta Goel. However, she also proved no document in this regard. Merely showing bank statements where there are some credit entries in the account of the accused cannot be substituted for the sale consideration of the two shops in question. Resultantly, no relief can be given to the accused in this regard.

120 The **seventh submission** for additional income on behalf of accused is that Smt. Sangeeta Goel has one real brother namely Shri Sanjay Gupta who was examined as DW-1 to show gifts worth Rs.5,33,050/- in favour of the accused. Shri Sanjay Gupta deposed that he was Marketing Director in Whirlpool company. It is his submission that he gifted a sum of Rs.5,33,050/- by way of different cheques in favour of accused. A brother who is well placed in his life, as per Indian culture, gifts to the sisters. However, in accepting these cheques as gifts from Shri Sanjay Gupta there are two difficulties. The first difficulty is that Sh. Sanjay Gupta has one more sister namely Smt. Samita. A brother would evenly deal with his two sisters unless there are special circumstances. The witness deposed that he had gifted more amount to his other sister Smt. Samita. However, the witness did not lead any

evidence to show payment of money, by cheque or cash, as gift to the other sister Smt. Samita. Had there been evidence of payments of money as gift to the other sister also, the submission of the witness would have been persuasive. The second difficulty is that Shri Sanjay Gupta himself had written a letter dated 28.06.2012, D-137, to the IO of the case informing that he had given a sum of Rs.8,95,000/- as gifts to his sister Smt. Sangeeta Goel by way of various cheques as mentioned in that letter. During admission/denial, the accused admitted this letter on 27.07.2015 and it was exhibited as Exhibit A-153. Now, it is difficult to believe the evidence of Shri Sanjay Gupta that over and above the gifts of Rs.8,95,000/-, he had also gifted Rs.5,33,050/- to his sister Smt. Sangeeta Goel. Had he given these gifts, he would have mentioned the same in Exhibit A-153 during investigation. The witness did not make any endeavour to explain why earlier he had informed in writing that the gifts were Rs.8,95,000/- only and why he had omitted to mention additional gifts worth Rs.5,33,050/-. The accused has not led any evidence to show that he had informed his department having received these gifts from his brother-in-law. The Explanation to section 13 (1) (e) of the Prevention of Corruption Act 1988 provides that "For the purposes of this section, "known sources of income" means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant". Therefore, the submissions of the accused in this regard are rejected.

121 The **eighth submission** of the accused is to include a sum of Rs.1,55,000/- as additional income of Smt. Sangeeta Goel as earnings from reliance placement services which had Account No. 20049 with Bank of India, Malai Mandir Marg, R.K. Puram, New Delhi. There are 8 credit entries Exhibit DW-24/26 to Exhibit DW-24/33. With regard to

these credit entries, a witness from Bank of India, DW-24, also deposed he has no personal knowledge about the deposit receipts exhibited in the court by him and an account holder can withdraw amount from his account after deposit at any point of time. No other witness has been examined by the accused in support of his arguments in this regard. No witness has appeared to depose that he had made these payments to Reliance Placement Services. How can a bank official prove that the amount deposited in the bank is from known sources of income of the accused? Resultantly, the submission of the accused to give benefit of additional income of Rs.1,55,000/- is rejected.

122 The **ninth submission** of the accused is that she be given benefit of additional income of Rs.1,49,700/- for sale of gold. In support of this submission, the accused is again relying on the Statement of Accounts of the Bank and the evidence of the officials of Bank of India. In case the accused had sold some gold, she should have examined the jeweller who purchased that gold. There should have been some evidence of credit entry from the jeweller in that regard. In the absence of any such evidence, this court is not inclined to accept the submission of the accused that she had sold gold worth Rs.1,49,700/-.

123 The **tenth submission** of the accused is for benefit of additional income of Rs.6,65,700/- as gifts from her mother Smt. Veena Gupta. The accused has divided these gifts in four parts. The first part is a gift of Rs.2,20,000/-. The second gift is for Rs.2,00,000/-. The third gift is for Rs.52,750/- and the fourth gift is for Rs.1,92,952/-. So far as gift of Rs.2,20,000/- is concerned, it comprises of cheque payments by Shri J.P. Gupta, father of Smt. Sangeeta Gupta. In the chargesheet, the accused has been given benefit of Rs.95,000/- as gift from Shri J.P. Gupta. So far these payments are concerned, as noted earlier, the law requires that such receipts have to be intimated in accordance with the

provisions of any law, rules or orders for the time being applicable to a public servant. No evidence has been shown for intimating the Department of Shri D.K. Goel in this regard. The law is well settled that in case such gifts are shown in the income tax return, that in itself will not be treated as source of income but the accused has to show the genuineness of the gift before the same is treated as part of his income. Same will be the position with regard to gift of Rs.2,00,000/- in cash. In the Statement of Account of Syndicate Bank of the accused persons, there are two cash deposits of Rs.1,00,000/- each on 07.03.2002 and 11.03.2002. But there is no sufficient evidence to accept that this is a gift from Smt. Veena Gupta to Smt. Sangeeta Goel. The third gift claimed by the accused is Rs.52,750/- which according to the accused was gifted by Smt. Veena Gupta to Smt. Sangeeta Goel to enable her grandson purchase a motorcycle. On the other hand, according to CBI, vehicle number DL 3 SA G 3129 Bajaj Pulsar was registered on 15.04.2004 in the name of Smt. Sangeeta Goel. This vehicle was purchased from PRJ automobiles, New Delhi vide sales bill dated 15.04.2004 on payment of Rs.52,750/-. CBI has proved these facts by examining PW-27 Shri Anil Kumar, UDC, Transport Authority South zone, Delhi. Therefore, there is no justification for treating this sum of Rs.52,750/- as a gift from Smt. Veena Gupta to Smt. Sangeeta Goel. The last gift claimed by the accused from Smt. Veena Gupta is jewellery worth Rs.1,92,952/-. A perusal of page 13 and 14 of the chargesheet shows that at the time of search of the locker in the joint names of Shri D.K. Goel and his wife at Bank of India, Mandir Marg Branch, New Delhi gold worth Rs.1,92,952/- was found. Now, the accused is submitting that the entire gold found in their possession was a gift from Smt. Veena Gupta which cannot be believed. However, considering Indian traditions, some concession can be given to the accused as Smt. Veena Gupta might have gifted some

gold to her daughter Smt. Sangeeta Goel on different occasions. **Taking a lenient view, the accused is given a benefit of Rs.1,00,000/- on this account.** However, the submissions of the accused to treat the entire sum of Rs.6,65,702/- as gift from Smt. Veena Gupta is rejected. Only a sum of Rs.1,00,000/- shall be treated as gift in the form of gold from Smt. Veena Gupta Smt. Sangeeta Goel.

124 The **eleventh submission** of the accused is for treating a sum of Rs. 36,438 as part of her additional income during the check period. The accused is relying on evidence of DW-13 from Bank of India, R.K. Puram, New Delhi where the witness has deposed that the accused had 3 FDRs of Rs.40,000/-, Rs.2,00,000/- and Rs.25,000/- deposited on 04.11.2008, 02.06.2008 and 16.01.2008 respectively. The witness has further deposed that a sum of Rs.44,856/-, Rs.2,27,336/- and Rs.29,246/- was credited in the account of accused on 20.02.2010. A perusal of the chargesheet shows that the deposited amount in the FDRs has not been treated as part of assets of the accused. In case this sum of Rs.2,65,000/- is treated as movable asset of the accused at the time of search, the disproportionate assets would stand increased by a sum of Rs.2,65,000/-. The accused will gain nothing if he is given the benefit of interest of Rs.36,438/- as part of income but is also saddled with movable assets of Rs.2,65,000/- for calculating the disproportionate assets. Therefore, this submission is also rejected.

125 The **twelfth submission** of the accused is that CBI has not given benefit of security of Rs.40,000 deposited by Mr. Naveen Sharma for tenancy of Shop No. 230, Vardhman Mall, Dwarka, New Delhi. The IO of the case PW-130 has conceded that it was “an inadvertent error”. In the light of this evidence of the IO of the case, **the accused is entitled to gain of Rs.40,000/- as additional income.**

126 The **thirteenth submission** of the accused is that she had received a gift of Rs.1,00,000/- from her 'Rakhi Brother' Dr. Vijay Gupta. The said Dr. Vijay Gupta has not entered the witness box to give his evidence. Mere credit entries in the bank account of the accused cannot be treated as a gift from the said Dr. Vijay Gupta. Therefore, the submission of the accused is rejected.

127 The **fourteenth submission** of the accused is that she is entitled to additional income of Rs.26,000/- towards unreturned security of PW-1, Dr. Achal Gupta. The witness has deposed that when he vacated the shop he had requested for refund of security amount but the landlady refused to refund the security amount. **In the light of this evidence, the accused is entitled to additional income of Rs.26,000/- and the submissions of the accused in this regard are accepted.**

128 The **fifteenth submission** of the accused is that she is entitled to additional income of Rs.99,491/- which she earned by way of deposit of FDRs with Escorts Finance Limited. She is relying on evidence of DW-28 Shri Donald Fernandes, Chief Finance Officer, Escorts Finance Ltd, Faridabad, Haryana. This witness proved the deposits made by Smt. Sangeeta Goel as Exhibit DW-28/1. A perusal of this document shows that the accused had deposited with this company a total sum of Rs.1,88,000/- from 1995 to 2003 and earned interest of Rs.99,491/-. The accused is also relying on evidence of DW-14 from Bank of India to show the credit entries of this interest earned by her. The deposits were made by the accused during the check period. In case, the accused is to be given benefit of interest earned on these deposits, then these deposits will also be included in the movable assets of the accused/ expenses of the accused and the accused will be burdened with extra disproportionate assets to an extent of Rs.88,509/- after reducing from the remaining amount of investment with the interest earned i.e.

Rs.1,88,000/- – Rs.99,491/- = Rs.88,509/-. Therefore, the accused is not entitled to any benefit of additional income on this score.

129 The **sixteenth submission** of the accused is also almost similar to the fifteenth submission noted and dealt with above. The accused is relying on evidence of DW-12 Shri Shivji Prasad, Sub-Post Master, R.K. Puram, New Delhi for claiming a sum of Rs.85,000/- as interest on KVPs. The accused is also relying on Exhibit PW-28/13 and Exhibit PW-28/14 which are the Statements of Account of the accused with Bank of India, RK Puram, New Delhi to show the credit entries of the interest in the Bank Account of the accused. At page 11 and 12 of the chargesheet, the KVPs of the accused have been dealt with by CBI. These KVPs are worth Rs.4,36,000/-. These KVPs are for the period from 2002 to 2004. The KVPs now relied on by the accused in his sixteenth submission are for the period from 1998 to 2001. The reasoning for declining this relief remains the same which is that in case the accused is to be given benefit of interest, she has to also account for investment of Rs.85,000/- in KVPs. If expenses/movable assets of Rs.85,000/- are taken into consideration and similarly interest of Rs.85,000/- is also taken into consideration, the net result will be no gain to the accused. Therefore, the submission of the accused is rejected.

130 The **seventeenth submission** of the accused is that CBI has erroneously taken shares amounting to Rs.11,424/- (D-85) as movable assets of Smt. Sangeeta Goel though these shares are billed in the name of Shri Rajeev Jain. The accused is also relying on evidence of PW-119 Inspector Gaurav Singh who deposed that he did not make any enquiries regarding the receipt in the name of Shri Rajeev Jain. The documents at D-85 have been admitted by the accused as Exhibit A-139. There is a Share Transfer Form in the name of Smt. Sangeeta Goel with regard to same shares which are subject matter of receipt dated

01.08.1995. That is the reason why the Investigating Officer has taken shares amounting to Rs.11,424/- as movable assets of Smt. Sangeeta Goel. This Share Transfer Form was found during the search at the premises of the accused. Therefore, this submission of the accused is also rejected.

131 The **eighteenth submission** of the accused is that she is entitled to a benefit of Rs.55,000/- towards gifts such as air conditioners, refrigerators and washing machine of Whirlpool company where her brother DW-1 Shri Sanjay Gupta was the Marketing Director. The accused is relying on evidence of DW-119 Inspector Gaurav Singh and the evidence of DW-1 Shri Sanjay Gupta. Though the accused has not strictly made out a good case in this regard, but taking a lenient view, the accused is granted benefit of Rs.55,000/- towards these articles as there is a probability that her brother who was holding a high position in Whirlpool company being its Marketing Director may have gifted these articles to his sister. **Therefore, the accused is entitled to reduction of Rs.55,000/- from DA amount.**

132 The **nineteenth submission** of the accused is that she is entitled to additional income of Rs.3,10,000/- as loan income from Dairy at Kunal Farm, Farookhnagar. The basis of submission is Exhibit PW 33/D1 which was collected from the premises of the accused at the time of search and is a register on whose hardbound cover is written "Krishna Dairy, Farooq Nagar, Gurgaon, Haryana-Equity Register of Partners Shri Mangat Ram and Smt. Sangeeta Goel". On the first page, it is written that the equity of Shri Mangat Ram Garg was Rs.3,50,000/- as Rs.1,00,000/- each is mentioned against his name for the date 01.09.1999, 13.09.1999 and 19.09.1999 and a sum of Rs.50,000/- is mentioned against his name for the date 19.09.1999. It is not mentioned whether this amount was given in cash or by cheque. It does not

mention any equity of Smt. Sangeeta Goel. This Exhibit is bereft of necessary and required details for a partnership firm. The Exhibit also notes that on 05.05.2002, someone named as Sh. Bhagmal received a sum of Rs.40,000/- in cash from Smt. Sangeeta Goel and it is also mentioned that now the balance amount payable would be Rs.3,10,000/-. Such a recording of note by no stretch of imagination conveys any partnership between the said Shri Mangat Ram Garg and Smt. Sangeeta Garg. The accused herself has quoted the evidence of Investigating Officer of this case PW 130 Dy. S.P Sh. V.M. Mittal who has deposed that he had not relied on Exhibit PW 33/D1 as it was not found relevant. He deposed that there was no clarity in this document regarding the partnership and the purpose for which the amount stated therein was given to Smt. Sangeeta Goel. The witness deposed that during the investigation, no partnership in the name of Krishna Dairy was found to be in existence. This register which has all the pages blank except first page where few notes noted above have been scribbled, is not indicative of any partnership. Accused has also not examined Sh. Mangat Ram Garg. Therefore, the submission of the accused to treat a sum of Rs.3,10,000/- as additional income is rejected.

133 The **twentieth, twenty first and twenty second submissions** of the accused are that the educational expenses of their children Kunal Goel and Sanyogita Goel totalling Rs.3,38,787/- should not be included in the expenses in as much as a sum of Rs.16,53,017/- has already been treated as non-verifiable expenditure including expenses on children's education. Therefore, it is the submission of the accused that adding the expenses on education of children of the accused in Navy Children School, New Delhi and the NDIM, New Delhi tantamount to double calculation. D-148 is a letter from the Principal of Navy Children School, New Delhi mentioning that on the education of children

of the accused, a sum of Rs.1,07,035/- were spent. Next, D-149 is a letter from New Delhi Institute of Management (NDIM) indicating that a sum of Rs.1,61,210/- were spent by the accused on the education of their son Shri Kunal Goel for doing BBA from the said Institute. This letter was admitted by the accused at the time of admission/denial of documents and was given Exhibit A-177. It appears that D-148 remained unproved on record in as much as neither it was admitted by the accused nor any witness was called from Navy children school to prove the same. So far as Exhibit A-177 (D-149) is concerned, same cannot be treated as part of non-verifiable expenditure. In the chargesheet, it is mentioned that some other expenditure on children education for which details are not available have not been considered separately. The reference to the prosecution in this regard is to the expenses for education of Shri Kunal Goel at Hope Hall Foundation School, R.K. Puram, New Delhi. It is this expenditure on education which could not be verified by CBI. **The CBI has taken a lenient view by not including a single penny on the expenditure of marriage of daughter of the accused as otherwise in Hindu Society, a substantial amount of the earnings of parents is spent in the wedding of their daughter. However, the CBI has not added anything in the expenses on that account.** In the opinion of this court, there is no substance in the arguments of the accused for not including the expenses of education of their son in New Delhi Institute of Management. **However, as CBI has not proved the expenses incurred on education in Navy Children School, the accused is entitled to reduction of disproportionate assets to an extent of Rs.1,07,035/- on that account.**

134 The **twenty third submission** which is the last submission on behalf of Smt. Sangeeta Goel is that the order on charge dated 01.04.2015 resulted in reduction of DA by a sum of Rs.1,70,566/-. No

adjudication of this court is required at this stage as the reduction in DA is by this court itself. For final calculations, the DA shall be treated as Rs.89,55,592/- and not Rs.91,26,158/-.

135 As a result, accused has succeeded in securing **reduction of DA by Rs.3,88,035/-**.

136 Now, the court will consider Chapter 3 of the Final Written Arguments on behalf of M/s. Kunal Agro Business Associates (M/s. KABA).

137 The calculation by the accused in this regard is mentioned at page number 69 of the written arguments as under:-

(1)	Calculation of D.A. (as per C.B.I. Version) (in respect of M/s. Kunal Agri Business Associates (I) Ltd.)		Amount (in Rs.)
	A.	Assets at beginning of check period	NIL
	B.	Assets at the end of check period	
		Immovable Assets Movable Assets – (NIL taken into account of Smt. Sangeeta Goel)	60,52,893.00 44,000.00
	Total		60,96,893.00
	C.	Income (KABA)	55,97,121.00
	D.	Expenditure (3,25,000.00 + 23,80,201.00 = 27,05,201.00)	27,05,201.00
	E.	DA (B-A+D-C)	60,96,893.00 (+)27,05,201.00 (-) 55,97,121.00
Total:		= 32,04,973.00	
(2)	Correct calculation of DA (after taking into consideration income not included by CBI, however, established during prosecution/defence evidence before the proceedings of this Hon'ble Court.)		
	A.	Assets at the beginning of check period	NIL
	B.	Assets at the end of check period	60,96,893.00
		Immovable Assets Movable Assets	
C.	Income (KABA)	55,97,121.00	

	Additional income (KABA) (as per details in Annexure-A)	54,95,570.76
	Total Income:	1,10,92,691.76
D.	Expenditure (3,25,000.00 + 23,80,201.00 = 27,05,201.00)	27,05,201.00
E.	DA (B-A+D-C)	
	(B)	60,96,893.00
	(D)	(+)27,05,201.00
	(B-A+D)	88,02,094.00
	DA (B-A+D-C) (88,02,094.00 – 1,10,92,691.76= (-) 22,90,597.76)	(-)22,90,597.76
Conclusion	(The income is more than by Rs. 22,90,597.76 , as such, D.A. is less than Zero, i.e. there are no disproportionate assets.	

138 A perusal of the calculations furnished by the accused shows that there is no difference so far as assets at the beginning of check period is concerned, assets at the end of check period is concerned and expenditure is concerned. The only difference and the major difference in the calculation of CBI and the accused is that the accused is claiming additional income of Rs.54,95,570/-.

139 The **first submission** in this regard made by the accused is that the accused had an income of Rs.75,570/- from Dairy at Farooq Nagar, Gurgaon which was credited in the Bank Account of M/s. KABA at Central Cooperative Bank. Accused is relying on evidence of PW-129 Sh. Raj Singh Dy. S.P, CBI who deposed that he had seized registers Exhibit PW 33/D1 to Exhibit PW-33/D13 as he had found them to be relevant at the initial stage of investigation. The accused is relying on the evidence of PW-130 Dy. SP V.M. Mittal who had deposed that he did not investigate Exhibit PW 33/D1 as he did not find it relevant. The accused is also relying on evidence of DW-25, Branch Manager, Central

Cooperative Bank, Gurgaon, Haryana who proved Statement of Account of M/s. KABA for Account No. 67 as Exhibit DW 25/1. This court has already discussed and arrived at a conclusion that there was no partnership for running any Dairy Farm at Farooq Nagar. Now, the accused is additionally relying on Exhibit DW 25/1 to show income from the Dairy Farm. Mere Statement of Account is not sufficient to prove income from the business of Dairy Farm. If in the Statement of Account there are credit entries, then there are debit entries also there. It means the Statement of Account reflects income as well as expenses. At the end, there was only a balance of Rs.5,934/- in the account which also shows that there is no basis for giving the benefit of additional income of Rs.75,572/- to the accused dairy farm business. This submission is therefore rejected.

140 The **second submission** of the accused is that they had income of Rs.20,50,000/- from booking of temporary membership of Blue Lagoon Retreat at Kunal Farm, Farooq Nagar, Gurgaon. The accused has referred to the evidence of PW-130 Dy. S.P V.M. Mittal, IO of the case who deposed that he did not consider the amount of Rs.20,50,000/- mentioned in the Balance Sheet Exhibit PW 20/10 (D-96) which has been shown in the liability under the Heading Temporary Membership Bookings because no such record to corroborate this claim was available. He also stated that he has considered the expenditure mentioned in this Balance Sheet because it was stated towards the project development and was self declaration of the company. However, for income, no source was available for collection of Membership Fee. The accused is also relying on evidence of PW-20 Shri Rajeev Aggarwal, Auditor of M/s. KABA who proved Balance Sheets of M/s. KABA as Exhibit PW 20/10. The witness deposed that the money was raised by M/s. KABA for development of a Resort under the name of

Blue Lagoon through memberships of the Resort. He deposed that in the year 1996-97, under the Head Temporary Membership Account, he had shown Rs.1,00,000/- and in the year 1997-98, under the same Head, he had shown additional membership of Rs.19,50,000/-. The accused is also relying on evidence of PW-2 Shri Akhilesh Singh, Income Tax Officer who deposed that M/s. KABA had shown an amount of Rs.8,10,000/- raised from Temporary Memberships. Merely filing of Income Tax Returns indicating raising of funds through Temporary Memberships is not enough as the accused has to satisfy the Temporary Memberships also. Otherwise, by filing income tax returns and paying income tax it will be very simple to change the colour of disproportionate assets.

141 The probative worth of Income Tax proceedings qua lawfulness of the source of income, has been dealt with by the Hon'ble Supreme Court in case of **State of Karnataka versus Selvi J. Jayalalitha & Ors.** 2017(6) SCC 263. The Hon'ble Supreme Court referred to **Anantharam Veera Singhaiah & Co. Versus CIT, AP** (1980) Supp. SCC 13 to hold in paragraph 190 that:

“The I.T. returns and the orders passed in the I.T. proceedings would not by themselves establish that such income had been from lawful source as contemplated in the explanation to Section 13(1)(e) and that independent evidence would be required to account for the same.”

142 The Hon'ble Supreme Court also held in paragraph 191 of the judgment in the case of Selvi J. Jayalalitha & Ors. (supra), “Even assuming that the Income Tax Return, the proceedings in connection therewith and decisions rendered therein are relevant and admissible in evidence, nothing as such turns thereon definitively as those do not furnish any guarantee or authentication of the source (s) of income tax, the pith of the charge against the accused. Such returns and orders

would not *ipso facto* either conclusively prove or disprove the charge and can at best be pieces of evidence which have to be evaluated along with other materials on record. Neither Income Tax Return nor orders asked in the proceedings relatable thereto, either definitively attest the lawfulness of source of income of the accused persons nor are of any avail to them to satisfactorily account for the disproportionateness of pecuniary resources and properties as mandated by Section 13(1)(e) of the P.C. Act.”

143 The Hon’ble Supreme Court also referred in paragraph 196 of the judgment in the case of Selvi J. Jayalalitha & Ors. (supra) to the case of ***State of Tamil Nadu by Inspector of Police Vigilance and Anti-Corruption vs. N. Suresh Rajan & Ors.***, (2014) 11 SCC 709 and held that:

“The property in the name of the income tax assessee itself cannot be a ground to hold that it actually belongs to such an assessee and that if this proposition was accepted, it would lead to disastrous consequences. This Court reflected that in such an eventuality it will give opportunities to the corrupt public servant to amass property in the name of known person, pay income tax on their behalf and then be out from the mischief of law”.

144 The Hon’ble Supreme Court also referred in paragraph 199 of the judgment in the case of Selvi J. Jayalalitha & Ors. (supra) to the case of ***Commissioner of Income Tax, Gujarat v. S.C. Kothari***, (1972) 4 SCC 402 and held that:

“The import of this decision is that in the tax regime, the legality or illegality of the transactions generating profit or loss is inconsequential qua the issue whether the income is from a lawful source or not. The scrutiny in an assessment proceeding is directed only to quantify the taxable income and the orders passed therein do not certify or authenticate that the source(s) thereof to be lawful and are thus of no

significance vis-a-vis a charge under Section 13(1)(e) of the Act.”

145 The Hon'ble Supreme Court also referred in paragraph 201 of the judgment in the case of Selvi J. Jayalalitha & Ors. (supra) to the case of **Vishwanath Chaturvedi v. Union of India & Ors.**, (2007) 4 SCC 380 and held as under:

“This decision is to emphasize that submission of income tax returns and the assessments orders passed thereon, would not constitute a full proof defence against a charge of acquisition of assets disproportionate to the known lawful sources of income as contemplated under the PC Act and that further scrutiny/analysis thereof is imperative to determine as to whether the offence as contemplated by the PC act is made out or not.”

146 The Hon'ble Supreme Court in the case of Selvi J. Jayalalitha & Ors. (supra) also held as under:

“A Constitution Bench of this Court in Iqbal Singh Marwah & Anr. v. Meenakshi Marwah & Anr., (2005) 4 SCC 370, in this context had ruled that there is neither any statutory provision nor any legal principle that the findings recorded in one proceeding may be treated as final or binding on the other as both the cases have to be decided on the basis of the evidence adduced therein.”

147 The Hon'ble Supreme Court in the case of Selvi J. Jayalalitha & Ors. (supra) also referred to **CIT Patiala v. Piara Singh**, 1980 Supp. SCC 166 and held as under:

“This rendition too proclaims against probative efficacy of an income tax proceeding or order passed therein as a conclusive determinant of lawfulness of the source of any income involved therein.”

148 The accused are also well aware of the same and that is why they made every endeavour to justify receipt of money through Temporary Memberships. The endeavour of the accused has only resulted in

showing payment of Rs.1,60,000/- as he could examine only D-5, DW-6, DW-7, DW-8, DW-10, DW-11, DW-15 and DW-17 who deposed that they had invested a sum of Rs.20,000/- for the membership of the club. The evidence of all these eight witnesses is not much inspiring. However, taking a lenient view, the accused is at most entitled to a benefit of Rs.1,60,000/- in that regard. Therefore, as against the submissions of the accused for giving him benefit of Rs.20,50,000/- towards Temporary Memberships of Blue Lagoon Retreat, **he is given benefit of Rs.1,60,000/-** and the request to treat remaining Rs.18,90,000 as part of Temporary Memberships is rejected.

149 The **third submission** on behalf of M/s. KABA is that the income of Rs.17,24,000/- towards investments of 105 shareholders whose shares were subsequently transferred to Smt. Sangeeta Goel has not been counted by the CBI. In the beginning of this judgement, extracts from the page 22-24 of the chargesheet dealing with share capital of M/s. KABA has been noted. It is noted that the company M/s. KABA raised paid-up equity worth Rs.68,72,000/- through equity subscription by 360 shareholders which includes seven promoters. Most of the subscriptions were received in cash for Rs.20,000/- or less. In 2004, almost all the shareholders purportedly transferred their shareholding in the name of Smt. Sangeeta Goel **without any sale consideration**. The chargesheet notes that 11 shareholders have admitted share subscription amount of Rs.1,91,000/-. 105 shareholders have denied investment of Rs.17,24,000/-. 99 shareholders could not be examined due to fictitious/wrong addresses w.r.t. share subscription amount of Rs.16,46,000/-. 72 shareholders died who had allegedly contributed share subscription amount of Rs.12,07,000/- and 67 shareholders shifted to unknown addresses and did not respond and had share subscription amount of Rs.10,67,000/-. It is further noted in the

chargesheet that out of the total share capital of Rs.68,72,000/-, a capital of worth Rs.10,31,000/- has been contributed by Smt. Sangeeta Goel from all sources including VDI disclosure etc. Out of the remaining amount of Rs.58,41,000/-, the shareholders including promoters have accepted to have invested a sum of Rs.1,97,000/- towards share capital. Out of doubtful share capital of Rs.56,44,000/-, an amount of Rs.17,24,000/- has been completely ruled out by the purported shareholders. Further, a capital of Rs.16,46,000/- is also ruled out as either no such shareholder existed at the given address or the address itself was fictitious. Therefore, a share capital of Rs.33,70,000/- as purported shareholder is completely ruled out. The remaining share capital of Rs.22,74,000/- contributed by the shareholders could not be examined due to death, shifting address etc. but since it was not completely ruled out, therefore, amount of Rs.24,71,000/- which is not completely ruled out was taken as capital contribution by members other than Smt. Sangeeta Goel. Present submissions of the accused are for those 105 shareholders who have completely denied having made investment with M/s. KABA. The accused is relying on evidence of PW-20 Shri Rajeev Aggarwal, Auditor of M/s. KABA, PW-02, Shri Akhilesh Singh, Income Tax Officer, New Delhi and PW 21 Shri Prem Lal Malik, Deputy Registrar of Companies in support of their arguments.

150 The accused has referred to the evidence of PW-34 to PW-37, PW-39 to PW-42, PW-45 to PW-47, PW-49, PW-52, PW-55, PW-57 to PW-61, PW-64, PW-65, PW-67 to PW-70, PW-73, PW-74, PW-76, PW-79 to PW-84, PW-86, PW-88, PW-89, PW-91, PW-92, PW-95 to PW-97, PW-101 to PW-105, PW-132, PW-133, PW-134 to submit that these witnesses had invested with M/s. KABA and on account of transfer of their shares in favour of Smt. Sangeeta Goel, the income of the accused had increased which was denied by CBI. It is to be noted that with

regard to other prosecution witnesses who were examined before this court and denied having made any investment with M/s. KABA, the accused has addressed no arguments. By not making any argument with regard to those prosecution witnesses, the accused have admitted that those witnesses had made no contribution to the capital of M/s. KABA and were shown as false subscribers of shares of M/s. KABA by the accused. Moreover, almost all the witnesses have deposed that they were not knowing Smt. Sangeeta Goel, Shri D.K. Goel or any member of their family before the year 2011. All of them have denied having made any investment with M/s. KABA. Some of them have stated that they have not invested in any company for any shares in their entire life. PW-37 denied having made any investment in M/s. KABA and clarified that he had signed one document on the asking of his friend and he had signed the document in good faith. Same is the statement of PW-39 who stated that he had not made any investment in M/s. KABA and had signed the Share Application Form on being asked by somebody from his office and he reiterated that he had not invested any money with M/s. KABA. He deposed that at the time when he signed Share Application Forms, they were blank. PW-41 has also denied having made any investment in M/s. KABA and stated that he had put his signatures on the share application form in good faith on the asking of his colleague in the office and when he signed the form it was blank. PW-43 had also received a cheque of Rs.1,000/- from M/s. KABA but he did not deposit the same in his bank account as he had not made any investment in the company. PW-44 also deposed that he had not made any investment in M/s. KABA and could not remember when and under what circumstances he had affixed his signatures on share application form or whether at the time it was filled or blank. PW-49 has also deposed that he made no investment in M/s. KABA but had signed on a blank form on

the asking of Shri D.K. Goel in good faith. PW-51 had also received a cheque for Rs.1,000/- from M/s. KABA but never deposited the same in the bank as she had never invested with the said company. PW-58 also denied having made any investment in M/s. KABA and deposed he does not remember when and how he appended his signatures on share application form and deposed that someone might have obtained his signatures on this document. He deposed that in his life, he has never invested in shares. PW-64 deposed that during the time when he was out of job and was making enquiries for employment, he was contacted by one Mr. Arora who took his ID proof and also obtained his signatures on various documents and gave him a cheque of Rs.5,000/-. The witness deposed that he is a very poor man and at the time he was without any means so he encashed that cheque. Many of these subscribers were from lower strata of society. PW-69 was a painter earning Rs.25/- to Rs.30/- per day. Many of them were unemployed when subscription in the shares of M/s. KABA was imputed to them. There are individuals (such as PW-77 earning Rs.55/- per day) who were selling Bidis and Cigarettes on the streets to make their two ends meet. PW-86 was a housewife having no source of income. PW-93 has deposed that at the relevant time he was unemployed and had no source of income. PW-97 at the relevant time was working as an auto electrician and had meagre income. What is most unbelievable part of the defence of the accused is that almost hundred percent of them transferred their shareholding in M/s. KABA free of cost in favour of Smt. Sangeeta Goel. What is the reason of their benevolence is conspicuously absent on the record.

151 The Hon'ble Supreme Court in the case of Selvi J. Jayalalitha & Ors. (supra) in paragraph 215 also referred to ***Yash Pal Goel v. Commissioner of Income Tax (Appeals)***, (2009) 310 ITR 75 (P&H)

Smt. Kusumlata Thakral v. Commissioner of Income Tax (Appeals), (2010) 327 ITR 424 (P&H), **Commissioner of Income Tax v. Sandeep Goyal**, (2014) 369 ITR 471 (P&H) and **Income Tax Officer v. Mukesh Bhanubhai Shah**, (2009) 318 (AT) 394 (ITAT [Mum]) and held that:

“In all these cases the assesseees were asked to provide explanation to bring the receipts within the purview of gifts exempted from income tax and the AO on an indepth scrutiny thereof had concluded that the transactions were only smoke screen/subterfuge to avoid income tax.”

152 The Hon’ble Supreme Court in the case of Selvi J. Jayalalitha & Ors. (supra) in paragraph 216 held as under:

*“To examine the genuineness of a gift, the test of human probability was very appropriate. It was reiterated that a gift cannot be accepted as such to be genuine merely because the amount has come by way of cheque or draft through banking channels unless the identity of the donor, his **creditworthiness**, **relationship with the donee** and the **occasion** was proved. **Unless the recipient proved the genuineness of the transaction**, the same could be very well treated as an **accommodation entry** of the assessee’s own money, which was not disclosed for the purpose of taxation.”*(Emphasis supplied).

153 It is clear that Share Application Forms relied by accused are not true reflection of their nature and intent. After registration of FIR and to give the impression that the transaction is bona fide, the accused sent a cheque of Rs.1,000/- to these witnesses as appreciation for their investment. Some of them encashed the cheque and some of them did not. However, when they came to know the trap of the accused, they returned this sum of Rs.1,000/- by sending letters along with cheque for a sum of Rs.1,000/- in favour of M/s. KABA. They also received another cheque of Rs.5,000/- from M/s. KABA but the same was not encashed by them except one witness who encashed it due to unemployment. If all these witnesses had bonafidely applied for the shares of M/s. KABA,

then there was no hitch or difficulty for them in admitting the same. It is unbelievable that cent percent witnesses denied having invested in M/s. KABA under pressure of CBI. As per Section 3 of the Indian Evidence Act, a fact is said to be proved when, after considering the matters before it, the court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists. Further, a fact is said to be disproved when, after considering the matters before it, the court either believes that it does not exist, or considers its nonexistence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist. The statute further provides that a fact is said not to be proved when it is neither proved nor disproved.

154 The Hon'ble Supreme Court in the case of Selvi J. Jayalalitha & Ors. (supra) in paragraph 234 & 235 held as under:

"K. Ponnuswamy v. State of T.N., (2001) 6 SCC 674, this Court referred to the definition of the word "proved" in Section 3 of the Indian Evidence Act 1872 and also Section 114 thereof. While noting that in terms thereof, a fact is said to be proved when after considering the matters before it, the Court either believes it to exist or considers its existence so probable that a prudent man, under the circumstances of the particular case, ought to act upon this supposition that it exists. It reflected also on the permissible presumption envisaged under the statute, with regard to the existence of any fact which a Court is likely to think to have happened, regard being had to the common course of natural events, human conduct and public and private business in relation to the facts of a particular case.

The significance of this decision is that while evaluating the evidence on record, the attendant facts and circumstances need be taken note of as well, to

determine as to whether the materials available, having regard to the common course of natural events and human conduct do logically prove the point in issue.”

155 After considering the matters before it, this court believes that the prosecution has proved that none of these prosecution witnesses had invested any money with M/s. KABA. Only and only PW-47 Sh. Gainda Mal has accepted investing a sum of Rs.1,500/- in M/s KABA. Therefore, the submission of the accused to treat a sum of Rs.17,24,000/- as part of additional income of M/s. KABA is rejected and he is given benefit of additional income of Rs.1,500 only in the light of evidence of PW-47.

156 The **fourth and last submission** of the accused is that income towards investments of those shareholders whose shares were subsequently transferred to Smt. Sangeeta Goel but who could not be traced by CBI through their process servers has not been counted by the prosecution. This investment is totalling Rs.16,46,000/-. First, the accused has addressed arguments with regard to shares of one Shri Shadi Ram Sharma. The accused has relied on evidence of PW 20, PW 02 and PW 21 who were the Auditors of M/s. KABA, Income Tax Officer and Deputy Registrar of Companies respectively. It is already noted in earlier parts of the judgment that merely filing income tax returns is not sufficient to show the income from particular source mentioned in the return. The accused has to satisfy the transactions in the returns. The accused has assailed testimony of PW-100 constable Moti Lal who had gone to serve notice to Shri Shadi Ram Sharma but could not show any fault in the report of PW-100. Second, the accused has challenged service of notice on Shri Lake Ram, Ms Raj Rani Gupta, Ms. Ritika Batra, Shri Pappu Khan, Mohd. Ishaq and Shri DP Singh by PW-108 Constable D. Mahto of CBI. The accused is relying on evidence of DW 18 Shri A.K. Poorbe, from Indian Bank to show that cheque in the name

of Shri Lake Ram bearing number 918675 dated 13.11.2011 for a sum of Rs.1000/- was encashed. This testimony is not sufficient to show investment by so-called Shri Lake Ram in as much as there can be more than one person by the same name. The accused knew from day one when the chargesheet was filed that the allegation against him is that these shareholders could not be traced by the process servers of CBI. Going by the version of the accused, these individuals were not strangers to the accused in as much as according to the accused they had invested in M/s. KABA. Some of them had encashed a cheque of Rs.1,000/- given to them by M/s. KABA. Then, gratuitously they transferred their shares in favour of Smt. Sangeeta Goel. The accused has examined as many as 32 defence witnesses. Nothing prevented the accused from examining individuals who were unserved as per CBI in defence evidence to prove bonafide investment by these persons in M/s. KABA. Moreover, the accused could not show anything from the testimony of PW108 any fault in his service report. Third, the accused has made submissions with regard to 15 shareholders whose investment is stated to be Rs.2,50,000/-. The accused is relying on the fact that five of them encashed a cheque of Rs.1,000/-. Nothing turns out by showing credit of cheque of Rs.1,000/- because other prosecution witnesses who admitted having encashed cheque of Rs.1,000/- had still reiterated that they had not invested a single penny with M/s. KABA and were not knowing Smt. Sangeeta Goel, Shri DK Goel or any of their family members prior to the year 2011. It is reiterated that if the transaction was bonafide, nothing would have prevented the accused from summoning these persons and examining them as defence witnesses. Fourth, the accused is referring to four shareholders whose investment, according to the accused, is Rs.61,000/-. It is to be noted that a suggestion was given on behalf of accused to the Investigating Officer of this case PW-130

that these shareholders were available at the addresses given but he has falsely claimed in the chargesheet that these persons were not available at the given addresses. If the accused was so sure of availability of these shareholders at the given addresses, he would have gladly summoned and examined them. Fifth, the accused has addressed arguments with regard to 13 individuals who according to accused transferred their shares worth Rs.2,27,000/- to Smt. Sangeeta Goel. So on and so forth, the accused has addressed arguments with regard to 17 shareholders who transferred their shares worth Rs.3,06,000/- to Smt. Sangeeta Goel, 14 shareholders transferred their shares worth Rs.2,10,000/- in favour of Smt. Sangeeta Goel, three shareholders who had transferred shares worth Rs.51,000/- in favour of Smt. Sangeeta Goel, four shareholders who had transferred their shares worth Rs.64,000/- in favour of Smt. Sangeeta Goel, five shareholders who had transferred their shares worth Rs.95,000/- in favour of Smt. Sangeeta Goel and lastly six shareholders who had transferred their shares worth Rs.1,02,000/- in favour of Smt. Sangeeta Goel. The arguments for claiming benefit of this transfer is same as in the case of earlier shareholders which have been discussed and rejected by the court. Though, not proved still assuming it to be proved that shareholders had purchased shares and had transferred in favour of Smt. Sangeeta Goel, still considering the circumstances noted above, the gift/transfer would be a sham transfer. Therefore, the submissions of the accused that CBI wrongly rejected additional income of M/s. KABA worth Rs.16,46,000/- is rejected.

157 The outcome of all this discussion is that **the disproportionate assets would stand reduced by a sum of Rs.1,61,500/-** by way of additional income of M/s KABA.

158 Now, the disproportionate assets would be:-

Calculation of DA

A	Assets at the beginning of check period	-	Nil
B	Assets at the end of check period:-		
	Immovable Assets		Rs.1,55,98,539/-
	Moveable Assets		<u>Rs. 18,56,989/-*</u>
	Total		Rs.1,74,55,528/-
C	Income		Rs.1,51,31,785/-**
D	Expenditure		Rs. 60,02,381/-***
E	DA (B-A+D-C)		Rs. 83,26,124/-
	% of DA (E/Cx100)		55.02%

Note: Additional benefit of Rs.1,70,566/- also given as per order on charge dated 01.04.2015.

* Deduction of Rs.1,00,000/- towards cost of jewellery and Rs.55,000/- for Whirlpool articles, Para 123 and 131.

** Increase of income of Rs.49,933 plus Rs.30,000/- plus Rs.40,000/- plus Rs.26,000/- plus Rs.1,60,500/- plus Rs.1,500/- plus Rs.60,000 plus Rs.1,70,566/- as per Para 106,107,125,127,148,155,118 and order on charge dated 01.04.2015 respectively.

*** Deduction of Rs.1,07,135/- Para 133.

159 This proves the charge against accused no. 1 Sh. D.K. Goel for the offence under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988 and he is convicted accordingly.

160 In the case of **P. Nallammal Versus State** 1999 AIR(SC) 2556, it is held as under:

"Abetment" is defined in Section 107 of the Penal Code as under:

"107. Abetment of a thing - A person abets the doing of a thing who-

First. - Instigate any person to do that thing; or

Secondly, - Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

*Thirdly. - Intentionally **aids**, by any act or illegal omission, the doing of that thing."*

22. For the "First" clause (i.e. instigation) the following Explanation is added to the section:

"Explanation 1. - A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing."

23. For the "Thirdly" clause (i.e. intentionally aids) the following Explanation is added:

"Explanation 2.- Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act."

24. *Shri Shanti Bhushan cited certain illustrations which, according to us, would amplify the cases of abetments fitting with each of the three clauses in Section 107 of the Penal Code vis-a-vis Section 13(1)(e) of the P.C. Act . The first illustration cited is this:*

25. *If A, a close relative of the public servant tells him of how other public servants have become more wealthy by receiving bribes and A persuades the public servant to do the same in order to become rich and the public servant acts accordingly. If it is a proved position there cannot be any doubt that A has abetted the offence by instigation.*

Next illustration is this:

26. *Four persons including the public servant decide to raise a bulk amount through bribery and the remaining*

persons prompt the public servant to keep such money in their names. If this is a proved position then all the said persons are guilty of abetment through conspiracy.

The last illustration is this:

27. If a public servant tells A, a close friend of him, that he has acquired considerable wealth through bribery but he cannot keep them as he has no known source of income to account, he requests A to keep the said wealth in A's name, and A obliges the public servant in doing so. If it is a proved position A is guilty of abetment falling under the "Thirdly" clause of Section 107 of the Penal Code.

28. Such illustrations are apt examples of how the offence under Section 13(1)(e) of the P.C. Act can be abetted by non-public servants. The only mode of prosecution such offender is through the trial envisaged in the P.C. Act

29. For the aforesaid reasons we are unable to appreciate the contentions of the appellants that they are not liable to be proceeded against under the P.C. Act . Accordingly we dismiss these appeals."

161 The accused no. 2 Smt. Sangeeta Goel has been charged under Section 109 of IPC read with Section 13(2) & 13(1)(e) of the Prevention of Corruption Act, 1988. She has been actively aiding and assisting accused no. 1 Sh. D.K. Goel for the commission of offence under Section 13(2) & 13(1)(e) of the Prevention of Corruption Act, 1988. She has been purchasing and selling residential properties and commercial properties in her name from the tainted money of accused no. 1 Sh. D.K. Goel. She has been investing in securities of government (KVPs etc.) in her name. Most importantly, she was the Managing Director of M/s KABA and was actively assisting in dealing with the tainted money of Sh. D.K. Goel by presenting the same as subscriptions of shareholders falsely. She is not simply a housewife. The offence of abatement under

Section 109 of IPC read with Section 13(2) & 13(1)(e) of the Prevention of Corruption Act, 1988 also stands proved against accused no. 2 Smt. Sangeeta Goel.

162 Conclusion:

Accused No. 1 Sh. D.K. Goel is convicted for the offence under Section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988 and accused No. 2 Smt. Sangeeta Goel is convicted for the offence under Section 109 of IPC read with Section 13(2) & 13(1)(e) of the Prevention of Corruption Act, 1988.

**Announced in the open court
on 14.07.2020**

**(ARUN BHARDWAJ)
Special Judge (PC Act)
(CBI-5), Rouse Avenue
District Court, New
Delhi:14.07.2020
(RY)**