

**(PHYSICAL HEARING)**

**CBI Vs. Ram Bharosay Sharma**  
**CC No. 311/19**  
**RC 30(A)/2012/CBI/ACB/ND**  
**u/S. 13(2) r/w Sec. 13(1)(e) of PC Act**

**15.09.2020 (At 12:00 PM)**

Present : Sh. V. K. Pathak, Ld. PP for CBI.

Ms. Rashmi Singh along with Sh. Madhur Bhushan, Ld.  
Counsel(s) for accused Ram Bharosey.

Accused Ram Bharosey is present on bail.

The matter was proceeding at the stage of pronouncement of judgment.

Vide separate detailed judgment of even date, announced in the open court today, the accused Ram Bharosay Sharma stands acquitted of the charge(s) u/S. 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988.

The previous bail bond(s) of accused Ram Bharosay Sharma stand cancelled. Previous surety stands discharged. Documents, if any be returned after cancelling the endorsement, if any, if the same are not resubmitted while furnishing bail bonds u/S. 437-A CrPC.

The said accused has already furnished his bail bond(s) in compliance of Section 437-A Cr.P.C., which will remain valid for a period of six months from today, as per the provisions of Section 437-A Cr.P.C.



The e-mail copy / signed scanned copy of this order as well as of judgment be sent to the Computer Branch, RADC by the Reader for uploading on the official website.

The present order as well as judgment has been dictated to Sh. Amit Makhija, Sr. PA attached with the undersigned.

File be consigned to record room.



(Sanjeev Aggarwal)  
Special Judge (PC Act)(CBI)-02  
Rouse Avenue District Court  
New Delhi/15.09.2020

**IN THE COURT OF SH. SANJEEV AGGARWAL  
SPECIAL JUDGE : (CBI)-02 : (PC ACT)  
ROUSE AVENUE DISTRICT COURT, NEW DELHI**

**CC NO. 02/2019 (Case ID CC No. 311/2019)  
RC NO. 30(A)/2012/CBI/ACB/ND  
PS : CBI/ACB/ND  
U/S : 13(2) r/w Sec.13(1)(e) of PC Act, 1988**

**Central Bureau of Investigation (CBI)**

**Vs.**

**Ram Bharosay Sharma  
S/o. Late Nandan Lal  
R/o. H. No. T-21/B, Ward No. 3,  
Near Vikas Hospital, Mehrauli  
New Delhi-30.  
(Permanent address : Village Kila,  
Post Office – Beswan, PS & Tehsil – Iglas  
Distt. - Aligarh, Uttar Pradesh)**

**Date of institution : 01.04.2016  
Judgment reserved : 18.08.2020  
Judgment delivered : 15.09.2020**

**JUDGMENT**

1. Brief facts as set out in the chargesheet are as under:-

**13.1 The instant case was registered on 04.09.2012  
u/s 13 (2) r/w 13 (1) (e) of Prevention of Corruption Act  
1988 against Sh. Ram Bharosay Sharma @ R.B Sharma**



@ Ram Bharosay, Assistant Engineer (Civil), Delhi Jal Board, Delhi on the basis of complaint of Sh. Anand Sarup, Insp. CBI, ACB, New Delhi, the investigating officer of another CBI case no. RC-DA1-20110-A-0014, ACB, Delhi, in which accused Ram Bharosay Sharma was an accused. During search at the residential premises of accused Ram Bharosay Sharma conducted on 16.09.2011 in RC-DAI-20110-A-0014, several incriminating documents were seized. On the basis of search documents and further investigation in the matter, Sh. Anand Sarup recommended registration of the instant DA case.

13.2 It was alleged that Ram Bharosay Sharma while posted as public servant in different capacities in Delhi Jal Board and DSIIDC (on deputation), had, by abuse of his official position as public servant, amassed assets in his own name or in the name of his family members which were substantially disproportionate to his known sources of income.

13.3 It was alleged in the FIR that accused R.B.

Sharma and his family members were in possession of the assets worth Rs.62,81,993/- during check period i.e. 02.11.1987 (date of joining of the accused in Delhi Jal Board) to 16.09.2011 (the date of house search), and their income was Rs.57,67,367/-. Approximate expenditure was Rs. 29,61,754/-. Likely savings was to be Rs. 28,05,612/- which was disproportionate to his assets by Rs.34,76,381/- i.e. 60.27%.

13.4 Investigations revealed that Ram Bharosay Sharma did not intimate Delhi Jal Board about a number of transactions of immovable/movable properties while in service. He had filed ITRs in the name of his wife Smt. Shashi Rani Sharma though she is a house wife and his two sons while they were studying.

13.5 After investigations, a closure report in the case was filed on 13.05.2014, in the predecessor court of this Hon'ble Court with observations that the accused was found in possession of Disproportionate Assets worth Rs.12,58,918/- or 11.09%. During the calculation of Disproportionate Assets, a liberal view was taken by the

CBI on the ground that he had filed ITRs in his name as well as in the names of his family members. A number of benefits were extended to the accused and it was left with the court and the Delhi Jal Board to take such action as deemed fit against the accused.

13.6 The predecessor court of this Hon'ble Court vide order dated 02.12.2014 was pleased to direct the CBI to conduct further investigations in the case on certain points. The court had raised issues of giving benefit of agriculture income of the accused and income of the wife of the accused. The court also questioned the DA calculation on the point of jewellery items found in the locker of the accused, purchase of 250 sq. yds plot by the accused for an amount of Rs.1 lakh only and not filing the charge sheet in the case by the CBI in which DA amount was Rs.12,58,918/- i.e. 11.09%, whereas the Hon'ble Supreme Court vide order dated 17.12.1976 passed in *Krishnanad Agnihotri Vs the State of Madhya Pradesh* had decided about giving benefit of 10% only of income to the accused. Thereafter, further investigations

was conducted in the matter.

**14. Result of the Investigation**

Investigation has revealed that Sh. Ram Bharosay Sharma @ RB Sharma did B.Sc (Engineering) from Aligarh Muslim University, Aligarh in the year 1985 and worked in two private firms in Delhi from July 1985 to October 1987. Then, he joined Delhi Jal Board on 02.11.1987 as Junior Engineer (Civil). He remained posted in the office of EE (West) from 02.11.87 to 30.09.96, office of EE(W)-I Najafgarh from 01.10.96 to 15.01.03 and office of EE(SW)II from 15.01.03 to 24.11.05. He worked in South-West-III Division of Delhi Jal Board from December 2005 to December 2008. Thereafter, he joined DSIIDC on deputation on 01.01.2009 and came back to DJB from DSIIDC on 30.04.13. As on 16.09.11 i.e. the date of search, he was on deputation to DSIIDC.

Sh. RB Sharma married to Smt. Shashi Rani Sharma in the year 1985. They are blessed with two sons namely Abhishek Kumar Sharma (DOB : 03.06.1988) and Paras Kumar Sharma (DOB : 19.12.1990). Abhishek had

completed BE(IT) from NSIT, Dwarka, New Delhi in June 2009 and then, he joined Microsoft as Software Engineer at Hyderabad in September 2009. Younger son Paras Kumar Sharma completed BE (IT) from G. L. Bajaj Institute of Technology & Science, Greater Noida, in the year 2012.

The check period in this case for the purpose of calculation of DA in respect of R B Sharma has been taken from his date of joining in Delhi Jal Board i.e. 02.11.1987 to the date of his house search i.e. 16.09.2011.

Though DA calculation in respect of his wife Smt. Shashi Rani Sharma and his both sons has not been included with the proposed DA case against RB Sharma calculation about their income/assets/ expenditure has been discussed in the concluding paragraphs.

Investigations with regard to assets in respect of the accused only before the check period has revealed as under:-

**Statement A : Assets at the beginning of the period of**

check i.e. 02.11.1987

1). Income from private firms before check period

Investigation disclosed that after doing B.E. from AMU, Aligarh, accused RB Sharma had worked in private firms. In support of his claim, he produced a letter dated 01.01.86 purportedly issued by M/s. J. S. Constructions (Govt contractor & Engineers), 257, Shahpur Jat, New Delhi, certifying therein that RB Sharma was paid @ Rs.1,200 per month from July 1985 to Dec 1985. A copy of the said letter is also placed on record in service book of the accused. Thus, the accused received Rs.7,200 (Rs.1,200 per month for 6 months) from this firm as his salary.

On perusal of service book of accused RB Sharma, it has revealed that a photocopy of letter 15.09.1987 purportedly issued by M/s. Organic India is attached with the service book, in which salary @ Rs.1,400/- per month is mentioned. Total income from this firm was Rs.30,800/- (Rs.1,400/- per month for 22 months).

Therefore, total income from these two firms is Rs.38,000/-. After deducting 1/3<sup>rd</sup> of the same i.e. Rs.12,667/- as unverifiable expenses, net income is Rs.25,333/- which has been considered as his income from these two firms.

**2. Agriculture income from 1975-76 to 02.11.1987**

Investigation revealed that Sh. Sukhdev Prasad, father of accused RB Sharma had about 120 bighas of land in his village Kila Beswan, Tehsil Iglas, Aligarh. Since there was possibility of acquiring extra land by the Govt. under sealing Act, his father planned to get him (RB Sharma) adopted by a landless person and then, to transfer some land in his name. Late Nandan Lal, cousin of his father, having no child, being unmarried, adopted RB Sharma when he was about 4 years old. His own parents facilitated his adoption by late Nandan Lal. After adoption, about 45 of land was transferred in his name by his father late Sukhdev Prasad, and in this way, the ancestral land was saved from acquisition by the govt. Late Nandan Lal expired in

the year 1970 and his real father late Sukhdev Prasad expired in the year 2006. His mother Smt. Badami Devi @ Smt. Vimlesh also expired in Feb 2013. The land was transferred /purchased from 1967 to 1973. Sale deeds and revenue records confirm possession of about 45 bighas of land by the accused.

During investigations, accused RB Sharma produced copies of *Kisan Bahis* bearing Nos.187191 dated 10.07.96, 187192 dated 30.07.96 and 192322 dated 30.07.96. He also produced copies of khatauni. Sh. C. V. Pandey, Sub-Registrar, Iglas, Aligarh vide letter no. 123/Sub-Registrar/Iglas-13 dated 21.10.13 confirmed that sale deeds bearing no. 115/1967, 564/1967, 740/1970, 49/1970 and 256/1973 are registered in the name of the accused.

During investigations accused RB Sharma claimed agricultural income of Rs.3,15,000/- from his agriculture land from 1975 i.e. date of registration of land in his name to 02.11.1987 i.e. date of joining DJB.

**There is no justification for giving benefit of**

income of Rs.3.15 lakhs as claimed by the accused before the check period. He was student at that time. It can be reasonably presumed that though the land was in his name, the income accruing from it would have been used by his family for meeting sundry expenses and savings would have been used in creating assets. It cannot be reasonably presumed that he had a cash balance of Rs.3.15 lakh as on 02.11.87 i.e. beginning of check period on account of agricultural income. The accused never intimated his Deptt about such cash balance as on 02.11.1987.

In view of above, benefit of agriculture income to the tune of Rs.3,15,000/- from 1975-76 to 1986-87 has not been extended to the accused in absence of any admissible evidence.

Thus, total assets at the beginning of check period i.e. as on 02.11.1987 in respect of accused RB Sharma as reflected under head Statement-A is Rs.25,333/-.

Investigations with regard to assets of the

accused are as under :-

Statement B Assets at the end of the period of check i.e. on 16.09.2011.

1. Purchase of flat bearing no. A-1406, CASA Royale at GH-10, Sector-1, Greater Noida, UP.

Investigation has disclosed that flat bearing no. A-1406, CASA Royale at GH-10, Sector -1, Greater Noida was purchased in the joint name of Sh. RB Sharma and Abhishek Sharma at a cost of Rs.34.71 lakhs for which an amount of Rs.6.74 lakhs paid during the check period out of which Rs.1.50 lakh has been paid by cheque by Sh R.B Sharma and rest has been paid in cash. Since Abhishek Sharma had no spare money as discussed in the subsequent paras to invest in the purchase of above said property, it is established that entire money for his property was paid by Sh R.B. Sharma. He even did not intimate his Department about acquisition of this property.

2. Cash observed during house search

During house search of the accused on

16.09.2011, cash of Rs.23,390/- was observed in the presence of the independent witnesses.

**3. Cost of Household articles**

During house search of the accused on 16.09.2011, inventory of household articles was prepared and the cost of the same is Rs.1,44,500/- as calculated by search witnesses Sh. Duli Chand and Sh. Vinod Kumar.

**4. The scrutiny of various bank accounts in the name of accused R.B. Sharma revealed as under :-**

Sl. No	Particulars of Bank Accounts	Balance as on 16.09.2011	Evidence
1.	Balance in Bank A/c No. 16711000005524 at HDFC Bank, Mehrauli, in the name of Sh. R. B. Sharma / Smt. Shashi Rani Sharma.	14,86,900	Letter dated 28.01.2013 from HDFC Bank, Mehrauli branch and statement of Sh. Deepak Gagneja of the said bank.
2.	Balance in bank A/c no.04401000019168 at HDFC Bank, Naraina Branch in the name of Sh.R.B. Sharma / Smt. Shashi Rani Sharma.	77,703	Letter dated 30.01.2013 from HDFC Bank and statement of Harpreet Singh of the bank.
3.	Balance in Bank A/c no.10628657721	268	Letter dated 12.01.2013 from SBI and statement

	opened on 23.08.97 at SBI, Mehrauli Branch in the name of R. B. Sharma / Smt. Shashi Rani Sharma		of Sh. Pratap Singh
4.	Balance in bank PPF A/c no. 10628745222 opened 23.03.99 at SBI, Mehrauli Branch in the name of R.B. Sharma	1,84,153	Letter dated 12.01.2013 from SBI and statement of Sh. Pratap Singh.
5.	Balance (Interest Credit of STDR on 23.08.2011) in Bank STDR A/c no.30586875982 at SBI, Mehrauli Branch in the name of Sh. R. B. Sharma. Original STDR of Rs.66,448 was seized during search.	16,448	Letter dated 12.01.2013 from SBI and statement of Sh. Pratap Singh.
6.	STDR made from A/c no.30586875982 at SBI, Mehrauli branch in the name of Sh. R. B. Sharma. Original STDR of Rs.66,448/- was seized during search.	50,000	Letter dated 12.01.2013 from SBI and statement of Sh. Pratap Singh.
7.	Balance in Bank A/c No.2018101002986 (old A/c no.2986) at Canara Bank, Mehrauli Branch in the name of Sh R. B.	5,967	Statement of Bank A/c, seizure memo dated 15.01.2013 & 13.02.2013 and statement of Sh. J. K. Arora.

	<b>Sharma</b>		
<b>8.</b>	<b>Balance in bank A/c no. CLSB/030118 at Corporation Bank, Vasant Kunj Branch in the name of RB Sharma. Rs.28,15,000/- in FD and Rs.19,676/- is in FD SB account.</b>	<b>28,34,676</b>	<b>Statement of Bank Account letter of the bank dated 31.08.2013 and statement of Sh. Robin Davis of the bank.</b>
<b>9.</b>	<b>Balance in bank A/c no. KCC/01/090434 as on 16.09.2011 at Corporation Bank, Vasant Kunj Branch in the name of RB Sharma. Original FD was seized during house search.</b>	<b>3,00,000</b>	<b>Statement of Bank Account letter of the bank dated 31.08.2013 and statement of Sh. Robin Davis of the bank.</b>
<b>10.</b>	<b>Balance in Bank A/c No. SB/01/830058 at Corporation Bank, Vasant Kunj Branch in the name of R B Sharma.</b>	<b>61,926</b>	<b>Statement of Bank Account, letter of the bank dated 31.08.2013 and statement of Sh. Robin Davis of the bank.</b>
<b>11.</b>	<b>Balance in bank A/c no.062200010015104 0 at PNB, Sarvodya Enclave Branch in the name of RB Sharma.</b>	<b>72,962</b>	<b>Statement of A/c, letter dated 14.01.2013 and statement of Sh. Pawan Kumar Sachdeva.</b>
<b>12.</b>	<b>Balance in bank in FD A/c no.062200310799603 0 at PNB, Sarvodya Enclave Branch in the name of R B Sharma.</b>	<b>1,61,209</b>	<b>Statement of A/c, letter dated 14.01.2013 and statement of Sh. Pawan Kumar Sachdeva.</b>

	<b>Original FD for Rs.1,23,428/- dated 29.01.2009 was seized during search. Originally it was made for Rs.50,000/- as per statement of Sh. R. B. Sharma.</b>		
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5. There is bank balance of Rs.25,933/- as on 16.09.2011 in A/c no. 04401930001886 maintained in the name of Abhishek Sharma with HDFC, Naraina Branch, Delhi which was opened in November 2008 in which cash of Rs.55,000/- was deposited in the same month. Since there was no source of income of Abhishek Sharma till August 2009, it is established that the same belongs to RB Sharma.

6. There is balance of Rs.27,918/- in bank A/c no. 16711000007295 maintained in the name of Sh. Paras Sharma with HDFC Bank, Mehrauli. This account was opened on 31.03.2011. Since there was no source of Income of Paras Sharma during the check period, it is established that the same belongs to Sh. RB Sharma.

In view of above discussion, total assets at the end of check period in respect of accused RB Sharma as reflected under head Statement-B is Rs.61,47,953/-.

Investigations with regard to income (Statement-C) of the accused during the check period i.e. from 02.11.1987 to 16.09.2011 are as under :-

1. Net salary of Sh. R.B. Sharma from 02.11.1987 to Sep 1996.

Investigation disclosed that net salary of accused R.B. Sharma from 02.11.1987 to Sep 1996 was Rs.3,33,835/- out of his Gross Salary Rs.3,67,805/-. No income tax was paid during that period. Statement of Sh. Kalu Ram, working as head Clerk, Office of Executive Engineer (Project)-Water-VI, Chandrawal Water Works No.2, DJB Staff Qtrs no. 111, Civil Lines, Delhi-54 has also been recorded, who proved relevant documents also.

2. Net salary of Sh. R. B. Sharma from Oct 1996 to Dec 2005.

Investigation disclosed that the accused

received net salary of Rs.11,26,188/- out of his Gross Salary was Rs.13,60,361/- from Oct 1996 to Dec 2005. Statement of Sh. Lokesh Chand Pareek, AAO, SW-I, DJB, has been recorded, who proved relevant documents also.

3. Net salary of Sh. R. B. Sharma from Dec. 2005 to Dec. 2008

Investigations disclosed that gross salary of the accused was Rs.8,04,319/- and net salary was Rs.6,81,829/- from Dec.2005 to Dec. 2008, besides arrears payment of Rs.1,81,927/-. Thus, the total net salary of the accused is Rs.8,63,756/-. Statement of Sh. Raveendran C, working as Asstt. Accounts Officer, South-West-III, Sector-7, R. K. Puram, New Delhi -22, has been recorded who proved the relevant documents.

4. Net salary of Sh. R.B. Sharma from Jan 2009 to 16.09.2011

Investigations disclosed that the accused joined DSIIDC as AEE on deputation on 01.01.09 (A/N) and he was reverted back to his parent department DJB on 30.04.13 (A/N). His net salary is Rs.12,43,040/- out of

gross salary of Rs.14,24,804/- after deducting Rs.82,244/- as income tax, during 02.01.2009 to 16.09.2011. Statement of Sh. K. B. Tayal, working as Asstt. Accounts Manager, Central Accounts Section, DSIIDC, N-36, C. Circus, Bombay Life Building, New Delhi-1 has been recorded, who proved the relevant documents.

5. Income from Sale of commercial plot no. C-8, UP Avas Vikas, Mathura in Krishna Vihar Yojna, in the name of Sh. R. B. Sharma

Investigations disclosed that RB Sharma sold his commercial plot bearing no. C-8, UP Avas Vikas, Mathura in Krishna Vihar Yojna, for Rs.8,00,000/- to one Smt. Lajjawati. Statement of Sh. Rajender Kumar (husband of purchaser Smt. Lajjawati) has been recorded who proved the aforesaid transaction. The payment has been made vide cheque no. 061870 dated 15.04.2011 drawn on Corporation Bank, Mathura Branch, The cheque was credited in account no. 1671100005524 of Sh. R B. Sharma at HDFC Bank, Mehrauli Branch, New Delhi on 25.04.2011. Statements of bank officials have

also been recorded, who proved the relevant documents.

Sh. Subhash Chand Sharma, brother of Smt. Shashi Rani Sharma, W/o RB Sharma has stated that the said plot was sold for Rs.27,20,000/- but stamp paper was made for Rs.8 Lacs only. He has claimed that Rs.17 lacs were paid through Bank accounts and Rs.10,20,000/- was paid in cash to Sh. R. B. Sharma. Sh. Subhash Chand Sharma has claimed that the said plot was sold to Smt. Lajjawati W/o Rajender Kumar through one Devi Charan Sharma. Payment of Rs.8 Lacs was made to Sh. R. B. Sharma by cheque by Smt. Lajjawati and Rs.8 Lacs was transferred to the account of R. B. Sharma by Sh. Devi Charan Sharma from his bank account. Subhash Chand Sharma had also transferred Rs.1 lac to the account of Sh. R. B. Sharma from his personal account, which he had received from Sh. Devi Charan Sharma in cash.

However, Sh. Devi Charan Sharma has stated that he finalized the deal to purchase the said plot for Rs.9,35,000/- with Sh. Subhash Chand Sharma and

paid Rs.8 Lacs from his account. When he came to know from UP Awas Vikas Parishad, Mathura that the plot was not free from encumbrances, he asked Sh. Subhash Chand Sharma to clear the dues before registry for which Sh. Sharma refused. In the meanwhile, the said plot was sold to Smt. Lajjawati by Sh. Sharma and then, Subhash Chand Sharma returned his money i.e. Rs.8 lacs in cash. Devi Charan Sharma has stated that he did not know Rajender Kumar or his wife Smt. Lajjawati.

On the other hand, accused RB Sharma has claimed that he sold the plot for Rs.17 Lakhs and received payments through banking channel. He received Rs.8 Lacs from the account of Smt. Lajjawati w/o Sh. Rajender Kumar, Rs.8 Lacs from Devi Charan Sharma and Rs. 1 Lakh from Sh. Subhash Chand Sharma. Sale deed has been prepared for Rs.8 Lacs only. The details of receipts are as under :-

Sl. No.	Amount	From	To (HDFC Account of RB Sharma)	Cheque No.
			at	

			Mehrauli Branch)	
1.	2,00,000	02681000034411 HDFC account of DC Sharma	1611000005524	0696813 dt. 16.03.11
2.	2,00,000	02681000034411 HDFC account of DC Sharma	1611000005524	0696814 dt. 16.03.11
3.	2,50,000	02681000034411 HDFC account of DC Sharma	1611000005524	0725132 dt.15.04.11
4.	1,50,000	02681000034411 HDFC account of DC Sharma	1611000005524	0725133 dt.15.04.11
5.	50,000	02681000021960 HDFC account of SC Sharma	1611000005524	0734688 dt.16.03.11
6.	50,000	02681000021960 HDFC account of SC Sharma	1611000005524	0734691 dt.15.04.11
7.	8,00,000	Corporation Bank Mathura account of Smt. Lajjawati	1611000005524	0061870 dt.25.04.11
<b>Tota l</b>	<b>17,00,000</b>			

**The claim of RB Sharma appears to be false. Sale deed and statements of Sh. Devi Charan Sharma and Rajender Kumar support the sale amount to be Rs.8 lacs only. Statement of Sh. Subhash Chand Sharma, brother of Smt. Shashi Rani Sharma, W/o R B.**

Sharma is not reliable. Subhah Sharma has claimed that the plot was sold for Rs.27 lakhs whereas accused RB Sharma has claimed the sale amount as Rs.17 lakhs. Version of both has been negated by Devi Charan Sharma and Rajender Kumar. Amount mentioned in the Sale Deed is considered legally admissible evidence. No intimation in this regard has been given by the accused to his department. In view of facts & circumstances, income benefit of Rs.8,00,000/- only from sale of this property has been considered.

**6. Income from LIC Policy No. 114842404**

Investigation disclosed that the accused received Rs.25,000/- vide cheque no. 0815430 drawn on Corporation Bank, K. G. Marg, New Delhi against LIC Policy No. 114842404 in his name. Statement of Sh. S. K. Suri of LIC, 11-J, KG Marg has been recorded, who proved relevant documents.

**7. Income from LIC Policy No. 110832251**

Investigation disclosed that the accused

received Rs.58,562/- against LIC Policy No. 110832251.

Statement of Sh. Roopram Chauhan of LIC, 11-N, Mehrauli has been recorded, who proved the relevant documents.

**8. Income from LIC Policy No. 330043052**

Investigation disclosed that the accused received Rs.44,450/- against LIC Policy no. 330043052 in his name. Statement of Ms. Madhu Grover, LIC, 12-H Branch, Rohini has been recorded, who proved the relevant documents.

**9. Income from LIC Policy No. 113134042**

Investigation disclosed that the accused had paid Rs.50,000/- to LIC for his policy no. 113134042 in his name at LIC, 11-J, Branch. He surrendered this policy and an amount of Rs.65,167/- was paid to the accused by LIC vide cheque no. 0320375 dated 12.02.2007. Statement of Sh. Shiv Kumar Saini of LIC has been recorded, who proved the relevant documents.

**10. Income from interest from various Bank Accounts**

in the name of R. B. Sharma.

Investigation regarding interest credit in various bank accounts of Sh. R. B. Sharma has disclosed as under:-

Sl. No.	Particulars	Amount Credited	Evidence
1.	Interest Credit of Rs.1,01,175 till 16.09.2011 in Bank A/c no.0622000100151040 at PNB, Sarvodya Enclave Branch in the name of R B Sharma. Bank could not provide all the statement of accounts. RB Sharma has provided copies of his passbook from 28.02.94 (date of opening of account to 16.09.11 and claimed interest credit income of Rs.1,19,790.	1,19,790	Statement of A/c of the bank and statement of Sh. Pawan Kumar Sachdeva.
2.	Interest Credit of Rs.60,120 till 16.09.2011 in Bank in FD A/c no.0622003107996030 at PNB, Sarvodya Enclave Branch in the name of Sh. Ram Bharosay Sharma. As per statement of Sh. RB Sharma, FD was made originally for Rs.50,000 on 22.03.1996, and total balance is Rs.1,61,209 and hence, interest is Rs.1,11,209 which appears to be genuine. RB Sharma has claimed that interest credit is Rs.1,11,209. He has provided copy of concerned passbook	1,11,209	Statement of A/c of the bank and statement of Sh. Pawan Kumar Sachdeva. Bank could not provide complete details. FD for Rs.94,650 was converted to FD of Rs.1,23,428

	bearing A/c no. 0622000100151040 (old A/c no.15104) showing debit of Rs.50,000 on 22.03.96.		on 18.01.03.
3.	Interest Credit of Rs.5,20,269 till 16.09.2011 in Bank A/c no. SB/01/830058, CLSB/01/030118 and FD A/c no. KCC/01/090434 at Corporation Bank, Vasant Kunj Branch in the name of R B Sharma.	5,20,269	Statement of Bank Account letter dt. 31.08.13 and statement of Sh. Robin Devis of the bank.
4.	Interest Credit of STDR on 23.08.2011, as on 16.09.2011 in Bank STDR A/c no. 30586875982 at SBI, Mehrauli Branch in the name of R. B. Sharma	16,448	Letter dt.12.01.13 from SBI and statement of Sh. Pratap Singh. Original STDR of Rs.66,448 was seized during search.
5.	Interest Credit till 16.09.2011 in Bank A/c No.10628657721 at SBI, Mehrauli branch in the name of R B Sharma/ Smt. Shashi Rani Sharma. Bank could not provide all the statement of accounts. RB Sharma has provided copies of his passbook from 2 Dec 1997 to 16.09.11 (date of opening of account was before 1987) and claimed interest credit income of Rs.30,005.	30,005	Letter from SBI and statement of Sh. Pratap Singh

6.	Interest credit till 16.09.2011 in Bank PPF A/c No. 10628745222 at SBI, Mehrauli Branch in the name of R. B. Sharma	86,353	Letter from SBI and statement of Sh. Pratap Singh
7.	Interest Credit till 16.09.2011 in bank A/c no. 04401600000145 at HDFC Bank, Naraina Branch in the name of R. B. Sharma / Smt. Shashi Rani Sharma.	1,816	Letter dt.30.01.13 from HDFC Bank and statement of Harpreet Singh of the bank.
8.	Interest Credit till 16.09.2011 in bank A/c no. 04401000019168 at HDFC Bank, Naraina Branch in the name of R. B. Sharma / Smt. Shashi Rani Sharma.	1,276	Letter dt.30.01.13 from HDFC Bank and statement of Harpreet Singh of the bank.
9.	Interest Credit till 16.09.2011 in bank A/c no. 04401930001886 at HDFC Bank, Naraina Branch in the name of Sh. Abhishek Kumar Sharma/ R. B. Sharma.	12,844	Letter dt.30.01.13 from HDFC Bank and statement of Harpreet Singh of the bank.
10.	Interest Credit till 16.09.2011 in bank A/c no. 16711000005524 at HDFC Bank, Mehrauli, in the name of R.B. Sharma/Smt. Shashi Rani Sharma	1,442	Letter from HDFC Bank and statement of Sh. Deepak Gagneja of the said bank.
11.	Interest Credit till 16.09.2011 in bank A/c no.	4	Letter dated 18.09.13 from

	16711000007295 at HDFC Bank, Mehrauli in the name of Paras Kumar Sharma.		HDFC Bank, Mehrauli issued by Deepak Gagneja and his statement.
12.	Interest Credit of Rs.8,071 till 16.09.2011 in bank A/c no. 2018101002986 (old A/c no.2986) at Canara Bank, Mehrauli branch in the name of R. B. Sharma. Bank didn't provide statement for whole period. RB Sharma has provided copies of his passbook from 23.06.90 (date of opening of account to 16.09.11 and claimed interest credit income of Rs.28,960.	28,960	Statement of bank A/c, seizure memo dt. 15.01.13 & 13.02.13 and statement of Sh. J. K. Arora.

### 11. Agriculture income of Sh. R. B. Sharma

Investigations has disclosed that the accused has been intimating his department about his agriculture income from time to time and the income was also shown in his ITRs. Statement of Sh. Rajender Kumar Arora, Head clerk, office of Asstt. Commissioner (Water), CR Cell, Delhi Jal Board, Varunalaya Phase-II, Karol Bagh, New Delhi-110005, has been recorded, who proved the relevant documents. As per APRs, agriculture income

of the accused from his ancestral land is as under :-

<b>APR</b>	<b>Submitted on</b>	<b>Agriculture income</b>	<b>Diary No.</b>
<b>2011 dated 24.01.12</b>	<b>03.02.12</b>	<b>1,50,000</b>	<b>1332 dated 03.02.12 of CR Cell</b>
<b>2010 dated 31.01.11</b>	<b>02.02.11</b>	<b>1,20,000</b>	<b>1071 dated 02.02.11 of CR Cell</b>
<b>2009 dated nil</b>	<b>22.08.12</b>	<b>1,10,000</b>	<b>3768 dated 22.08.12 CR Cell</b>
<b>2008 dated 01.01.09</b>	<b>04.05.09</b>	<b>1,00,000</b>	<b>3349 dated 04.05.09 CR Cell 1452 dated 30.01.09 of CR Cell and 75 dated 28.01.09 of SE-III</b>
<b>2007 dated nil</b>	<b>05.02.08</b>	<b>1,00,000</b>	<b>1580 dated 05.02.08 of CR Cell and 83 dated 18.01.08 of SW-III</b>
<b>2006 dated nil</b>	<b>02.02.07</b>	<b>99,000</b>	<b>853 dated 02.02.07 of CR Cell and 1304 dated 31.01.07 of SW-III</b>
<b>2005 dated 31.01.06</b>	<b>02.02.06</b>	<b>98,000</b>	<b>1470 dated 02.02.06 of</b>

				CR Cell
2004 10.03.05	dated 10.03.05	10.03.05	90,000	2313 dated 10.03.05 of CR Cell
2003 02.09.04	dated 02.09.04	02.09.04	83,000	4805 dated 02.09.04 of CR Cell
2002 10.03.05	dated 10.03.05	10.03.05	80,000	2312 dated 10.03.05 of CR Cell
2001 10.03.05	dated 10.03.05	10.03.05	79,000	2311 dated 10.03.05 of CR Cell
2000 10.03.05	dated 10.03.05	10.03.05	78,000	2310 dated 10.03.05 of CR Cell
1999 10.03.05	dated 10.03.05	10.03.05	77,000	2309 dated 10.03.05 of CR Cell
1998 10.03.05	dated 10.03.05	10.03.05	76,000	2308 dated 10.03.05 of CR Cell
1997 21.10.05	dated 21.10.05	02.02.06	72,000	6361 dated 21.10.05 of CR Cell
1996 07.01.97	dated 07.01.97	15.01.97	70,000	7325 dated 15.01.97 of CR Cell
		<b>Total</b>	<b>14,82,000</b>	

At the time of submitting APR for the year

1996, he had also mentioned that the ancestral land was

transferred in his name in his childhood. He had also

enclosed photocopy of Kisan Bahi issued in July 1996.

Accused RB Sharma has mentioned the following agriculture income in his ITRs :-

Assessment year	Agriculture Income, Mentioned on the computation and ITR
1999-2000	30,000
2000-01	--
2001-02	73,798
2002-03	75,200
2003-04	85,339
2004-05	83,860
2005-06	99,944
2006-07	1,03,263
2007-08	1,15,278
2008-09 filed on July 2008	1,05,000
2009-10 filed on 29.07.2009	1,48,644
2010-11 filed on 27.07.2012	1,51,456
2011-12 filed in July 2011	1,75,340
Total	14,47,122

Sh. Darshan Singh, Tehsildar, Iglas, Aligarh, vide letter dated 10.06.15 has intimated that accused RB Sharma, Son of late Nandan Lal, R/o Kila, Tehsil Beswan, Aligarh, has a total of 3.449 ha agriculture land as under :-

SI no	Khata no.	Total area (in hectare)	Share of RB Sharma	Share of RB Sharma (in hectare)	Remarks
1.	25	1.541	700/2676	0.403	Copy of sale deed dated 22.08.1967 has been produced by the accused. This land has entries in Khatauni also in the name of the accused.
2.	223	1.848	Full	1.848	Copy of sale deed dt.21.03.1967 for 0.856 ha land in Gata no. 210 211 & 212 has been produced by the accused. However, copy of sale deed or other document could not be produced by the accused reg. remaining 0.992 ha land in Gata no. 214, 215 & 219. But total land 1,848 has entries in Khatauni in the name of the accused.
3.	237	1.696	1/3	0.565	Copy of sale deed or other document has not been produced by the accused. But total land 0.565 has entries in khatauni in the name of the accused.
4.	178	5.675	1/36	0.158	Copy of sale deed dt.29.06.1970 has been produced by the accused. This land

					has entries in Khatauni also in the name of the accused.
			<b>Total</b>	<b>2.974</b>	
<b>5.</b>	<b>25</b>		<b>826/2676</b>	<b>0.475</b>	As per supplementary report of Sh. Darshan Singh.
			<b>Total</b>	<b>3.449</b>	Thus accused has produced sale deeds of land, out of which only 3.449 ha land as mentioned in the khatauni belongs to the accused.

**Sh. Darshan Singh, Tehsildar, Iglas has provided certified copies of Khasra for the year 1997-98 to 2008-09, which confirm that crops namely bajra, wheat, Arhar, Jwar, Jau, mustard, potato and kharbooja were sown on the land of the accused during these years. Tehsildar could not provide agricultural income from the said land from 1975 as they maintain Khasra Register (Girdhawaris) in which only type of crops and area of the land shown are mentioned.**

**Investigations has revealed that he has 1.417 (18.42 bigha land) as per copies of sale deeds produced by the accused, and 3.449 ha (about 45 bigha)**

land as per khatauni in the name of the accused. He has also produced copies of Kisan Bahis bearing nos. 187191 dt.10.07.96, 187192 dt.30.07.96 and 192322 dt.30.07.96. No sale receipt of crops from 1975 to 2000 has been produced by the accused.

In support of his agriculture income, accused RB Sharma had produced photocopies / original copies of the following crops sale receipts of different Krishi Utpadan Mandi Samiti, Aligarh :-

SI No.	Krishi Utapadan Mandi Samiti	Crops	Bill No.	Bill Date/Bill availability	Amount
1.	Beswan, Tehsil Iglas, Aligarh	Jai	092944/BR0092 7 Photocopy	26.05.2001	16,200
2.	-do-	-do-	092865/BR0092 6 Photocopy	25.07.2001	60,000
3.	-do-	Jwar	412605/CD4124 Original	15.01.2003	45,000
4.	-do-	-do-	412752/CD4125 Photocopy	25.09.2003	36,340
5.	-do-	Arhar	412780/CD4125 Photocopy	16.03.2004	47,520
6.	-do-	Wheat	473807/CN4736 Photocopy	28.04.2004	37,944

7.	-do-	-do-	473814/CN4736 Photocopy	29.07.2004	42,000
8.	-do-	Arhar	473830/CN4736 Original	07.12.2004	15,000
9.	-do-	Jaw	473841/CN4736 Original	15.04.2005	13,520
10.	Hathras	-do-	473872/CN4736 Original	10.07.2006	18,669
11.	Khair	Wheat	48977/29 Original	06.06.2007	1,50,365 Fake
12.	Beswan	-do-	275453/DL2752 Original	21.04.2008	1,40,000
13.	Khair	-do-	56078/64 Original	03.06.2009	49,965 Fake
14.	Hathras	Arhar	004233/0043 Original	28.12.2009	90,000
15.	Khair	Jai	56078/65 Original	04.06.2010	1,32,550 Fake
16.	Iglas (Hathras)	Arhar	039919/0400 Original	04.12.2010	68,400
17.	-do-	-do-	039929/0400 Original	08.07.2011	1,05,000
18.	Beswan	Dhhanc ha	412613/CD4124 Original		37,500
19.	Hathras	Mug	409485/CD4092 Original		23,968
20.		Arhar & Laha	853769/GR0853 5 Original		73,968
				<b>Total</b>	<b>12,03,909</b>

In order to ascertain genuineness of the

above receipts, the same were forwarded to the secretaries of different Krishi Utpadan Mandi Samitis namely Beswan, Khair, Iglas and Hathras, Uttar Pradesh.

Secretary, Krishi Utpadan Mandi Samiti, Khair, Aligarh vide letter dated 446 dt.20.01.2015 enclosing therewith letter no. KUMS/2014-126 dt.19.08.2014 intimated that Receipt/6R No. 56078/64 dated 03.06.2009 for Rs.49,965/- and Receipt/6R No.56078/65 dated 04.06.2010 for Rs.1,32,550/-, both purportedly issued by M/s. Chaudhary Trading Company, Krishi Utpadan Mandi Samiti, Khair and Receipt/9R no. 4897/29 dated 06.06.2007 for Rs.1,50,365/- purportedly issue by M/s. Kisan Trading company, Krishi Utpadan Mandi Samiti, Khair, are not genuine.

Sh. Navneet, Secretary, Krishi Utpadan Mandi Samiti, Khair, has stated that the said three receipts were forged one, as the receipt books were issued in 1993 and 1994 to M/s. Baba Traders, Khair, whereas the receipts in question were shown issued by

**M/s. Chaudhary Trading Co. and M/s. Kisan Trading Co. Khair. Secondly, the sale receipts in question are not the copies meant for R.B. Sharma. Thirdly, it is not possible that receipt books issued in 1993 & 1994 are used in the year 200, 2009 & 2010. Certified copy of the concerned pages of Receipt book issue register has also been seized from Sh. Navneet. Statements of the representatives of M/s. Baba Traders. M/s. Kisan Trading Company and M/s. Chaudhary Traders have been recorded which prove that the three receipts of crops are forged one.**

**The aforesaid three receipts in original were produced by the accused before the Investigating Officer and the same were seized on 01.10.2013 in presence of independent witness Sh. Chander Prakash, Sr. Draftsman, M-24, PWD, Loknaya Setu, Down Stream, Western Yamuna Bank, IP Estate, New Delhi. The said sale receipts were also signed by accused R.B. Sharma at the time of handing over the said sale receipts.**

Accused RB Sharma has stated that he received the said sale receipts from his younger brother Ram Hari Sharma who had already sold agricultural crops. Sh. Ram Hari Sharma has stated that he had handed over the said sale receipts to his brother RB Sharma, after receiving the same from the representatives of Kisan Trading Company and Chaudhary Trading Co., Khair.

Specimen of writings/signatures of accused R. B. Sharma were obtained in the presence of independent witnesses and the same were forwarded to the CFSL for comparison and opinion. CFSL has confirmed signatures of accused RB Sharma on the said three sale receipts which he made at the time of handing over the said receipts to the investigating officer in the presence of an independent witness. However, author of the writings available on the body of said sale receipts could not be attributed to the accused.

On further scrutiny of the sale receipts, it was found that there is no similar and natural pattern of

availability of sale receipts. In 2001 & 2003, there are two sale receipts and in 2004, there are four sale receipts. For 2002, there is no sale receipt in 2006, income was Rs.18,669 only whereas in 2007, income has been shown as Rs.1,50,365/-. The amount shown in the sale receipts are exactly not matching with the ITRs amount of APRs amount. The accused has submitted two APRs for the year 2011, one signed on 24.01.12 and other signed on 31.01.12, both submitted on 03.02.12 in DJB and diarized vide different diary numbers. First APR has agriculture income of Rs.1,50,000/- whereas the second has agriculture income of Rs.1,80,000 for the same year. From scrutiny of APRs, it is found that agriculture income has been shown in round figures.

Accused RB Sharma was in service from 02.11.1987 and till 1995, he had not intimated his Deptt about agricultural income from 1987 to 1995. He could not provide the bank account in which he was depositing the amount of agricultural income. He was residing with his family in Delhi. He purchased two

plots in Mehrauli in 1990-91 and 1997 for Rs.30,000/- and Rs.40,000 respectively, for which proper documentations were not done. He even did not inform his Deptt about acquisition of a plot at Rangpuri in the year 2007 in the joint name of his wife and himself in the year 2007. He purchased and disposed off a plot in Mathura but didn't intimate his Deptt. He has produced forged sale receipts in support of his claim of agricultural income. His statement about holding account in SBI Aligarh was found false during the course of investigation(s).

In spite of above irregularities, total agriculture income from 1986-87 to 16.09.11 amounting to Rs.18,15,000/- (Rs.3,33,000/- from 1987 to 1995 as claimed by the accused and Rs.14,82,000/- from 1996 to 16.09.2011 on the basis of APRs) has been considered.

12. Income of Sh. R. B. Sharma from Ganesh Stockinvest Pvt. Ltd.

Investigations disclosed that the accused had invested some amount through Ganesh Stockinvest

Pvt. Ltd. and received an amount of Rs.2,27167/-.

Statement of Sh. Amit Mittal of the firm has been recorded who proved relevant documents.

**13. Income from LIC Policy No. 113914438**

Investigations disclosed that the accused had paid Rs.97,052/- to LIC for his policy no. 113914438 at LIC, 11-J, Branch till 16.09.2011. An amount of Rs.30,000/- was paid to the accused by LIC vide cheque no.0339631 dated 05.01.2008. The policy is still in force. Sh. Shiv Kumar Saini of LIC has been recorded, who proved the relevant documents.

Thus, total income of accused R B Sharma during the check period under Statement- C head is Rs.75,72,250/-.

**Statement- D Expenditure during the period of check**

Investigations with regard to expenditure incurred during the check period by accused RB Sharma disclosed as under :-

**1. 1/3<sup>rd</sup> salary of accused RB Sharma**

Investigation has disclosed that R. B.

Sharma received gross salary of Rs.3,67,805/- from 02.11.1987 to Sep 1996. No income tax was paid during that period. He received gross salary of Rs.13,60,361/- from Oct 1996 to Dec 2005. He received gross salary of Rs.8,04,319/- besides arrears payment of Rs.1,81,927/-. He further received gross salary of Rs.14,24,804/- during 02.01.2009 to 16.09.2011.

Thus, he received gross salary of Rs.41,39,216/- during the check period. Total income tax paid is Rs.1,26,026/- as per ITRs upto AY 2011-12. Thus, gross salary after deducting income tax comes to Rs.40,13,190/- and 1/3<sup>rd</sup> of Rs.40,13,190/- is Rs.13,37,730/-, which has been taken as unverifiable expense.

## **2. Purchase of Infrastructure bonds of IIFCL Ltd**

Investigations disclosed that RB Sharma had purchased infrastructure bonds of IIFCL Ltd for Rs.20,000/-. Statement of Sh. Abhiroop Singh has been recorded who proved the relevant documents.

## **3. Expenditure on Birla Sun Life Insurance policy**

Investigations revealed that accused RB Sharma had incurred an amount of Rs.14,504/- paid in cash on 21.01.2010 and Rs.14,504/- vide cheque no.28778 dated 04.03.11 drawn on HDFC Bank for policy no. 003803585 in his name from Birla Sun Life. Thus, a total of Rs.29,008/- has been paid for the aforesaid policy till 16.09.11. Statement of Sh. Vikram Ranawat of Birla Sun Life has been recorded who proved the relevant documents.

4. Expenditure on making payments of premiums to LIC.

Investigations disclosed that the accused has paid Rs.22,500/- to LIC for his policy no. 110832251 and Rs.26,010/- to LIC for policy no. 111734909. Statement of Sh. Roopram Chauhan of LIC, 11-N, Mehrauli has been recorded, who proved relevant documents.

Investigations disclosed that the accused also paid Rs.70,385/- to LIC for his policy no.114842404 and Rs.58,232/- to LIC for his policy no.114721129.

Statement of Sh. S. K. Suri of LIC, 11-J, Mehrauli has been recorded, who proved relevant documents.

The accused had paid Rs.32,988/- to LIC for his policy no.330043052. Statement of Ms. Madhu Grower of LIC, 12H, Rohini has been recorded, who proved relevant documents.

The accused paid Rs.50,000/- to LIC for his policy no. 113134042, Rs.97,052/- to LIC for his policy no. 113914438. The accused also paid Rs.50,000/- to LIC for his policy no. 114840339 on 28.03.2006. Statement of Sh. Shiv Kumar Saini of LIC, 11-J has been recorded, who proved relevant documents.

#### 5. Expenditure incurred on Education

Investigations regarding payments made for both the sons of accused RB Sharma disclosed as under :-

SI No.	Particulars	Amount	Evidence
A	School fee of Paras Kumar Sharma to New Green Field Junior School for class I to IV	22,245	Statement of Sh. Gurdeep Khosla of the school and letter from the

			school
<b>B</b>	School fee of Abhishek Kumar Sharma to New Green Field Junior School for class I to IV	24,565	Statement of Sh. Gurdeep Khosla of the school and letter from the school
<b>C</b>	School fee of Paras Kumar Sharma to New Green Field School Saket for class V to XII	72,610	Statement of Sh. Gurdeep Khosla of the school and letter from the school
<b>D</b>	School fee of Abhishek Kumar Sharma to New Green Field School Saket for class V to XII	41,550	Statement of Sh. Gurdeep Khosla of the school and letter from the school
<b>E</b>	Fee etc paid for Abhishek Kumar Sharma to NSIT, Dwarka, New Delhi	1,01,300	Statement of Sh. Prem Kumar of NSIT and letter dated 09.04.2013 from NSIT
<b>F</b>	Fees paid for Paras Kumar Sharma for doing B.Tech(IT) from GL Bajaj Institute of Technology & Management, Plot no. 2, knowledge Park-III, Greater Noida, UP, from 2008-09 to 2011-12	4,46,700	Statement of Sh. Santosh Rana, Admn Officer and letter dated 30.07.13 by GL Bajaj Institute.

**6. Expenditure incurred on purchase of commercial plot no. C-8, UP Avas Vikas, Mathura in Krishna Vihar Yojna**

**Investigations disclosed that UPHDB had allotted Plot No. CP-8, Krishan Vihar Yojna, BSA Pocket,**

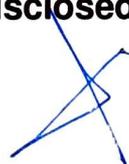
**Mathura to Sh. RB Sharma in auction held on 28.06.2001 and allotment letter was issued on 13.08.2001. RB Sharma had paid an amount of Rs.6,65,934/- for this plot to UPHDB from 28.06.2001 to 31.03.2005. After payments, Sale Deed was executed in favour of R B Sharma on 31.03.2005. He didn't intimate his Deptt about acquisition of this property. Statement of Sh. D. P. Singh of Estate Management Officer, UP Housing and Development Board, 574, MIG, Radhika Vihar, Mathura, UP has been received who proved the relevant documents.**

**7. Expenditure incurred on investment through SMC Global Securities Ltd.**

**Investigations disclosed that the accused had invested Rs.3,00,000/- through SMC Global Securities Ltd. through his trading Account no. HQA0661 and D. Shri Ram Kumar of SMC has been examined, who proved the aforesaid transaction.**

**8. Expenditure incurred on availing LTC**

**Investigations disclosed that the accused**



had incurred Rs.6,324/- and Rs.12,223 extra while availing LTC in the year 2010 and 2011. Total extra expense on LTC is Rs.18,547/-. Statement of Sh. Jitender Kumar, Account Assistant of DSIIDC has been recorded, who proved the relevant documents.

#### **9. Expenditure incurred on purchase of Nokia Phone**

Investigations disclosed that during search a bill bearing no. 127 dated 01.07.05 issued by Mobile Arcade, 1091, Ward no.1, Next to Ambavate Complex, Mehrauli, New Delhi -30 was seized, vide which Nokia mobile was purchased for Rs.5,850/-. Statement of Sh. Raj Kumar, the owner of the shop has been recorded, who proved the aforesaid bill.

#### **10. Expenditure incurred through Ganesh Stock Invest Pvt. Ltd.**

Investigations disclosed that the accused had invested an amount of Rs.5,40,000/- through Ganesh Stockinvest Pvt. Ltd. Statement of Sh. Amit Mittal of Ganesh Stockinvest has been recorded who proved the aforesaid transaction.



**11. Expenditure on MTNL Landline Phone.**

Investigations disclosed that the accused had paid an amount of Rs.66,739/- to the MTNL for landline No. 26644117. Statement of Sh. Dharamvir, Commercial officer, MTNL has been recorded, who proved the relevant documents.

**12. Expenditure of the accused on house rent.**

Jt. Director (Vigilance), Delhi Jal Board, vide letter dated DJB/VIG./2014/5639 dated 29.05.2014 had forwarded certified copies regarding details of exemption sought from income tax on the ground of paying house rent and HRA receipts/certificates/income tax proforma in respect of the accused for AY 2005-06, 2006-07 and 2007-08.

For 2005-06, he has enclosed copies of rent receipt dated 03.08.05 for rent of July 2005 and rent receipt dated 05.02.06 for Jan 2006, both @Rs.4,850/- per month duly signed by Smt. Shashi Sharma, instead of Shashi Rani Sharma, for his house T-21/B, Waard-3, Mehrauli, New Delhi. Thus, expense of rent is Rs.58,200

(4850x12) during 2005-06.

For 2006-07, he has enclosed copies of rent receipt dated 03.07.06 for rent of July 2006 and rent receipt dated 05.01.07 for Jan 2007, both @Rs.4,900/- per month duly signed by Smt. Shashi Sharma, instead of Shashi Rani Sharma, for his house T-21/B, Ward-3, Mehrauli, New Delhi. Thus, expense of rent is Rs.58,800 (4900x12) during FY 2006-07.

For 2007-08, he has enclosed copies of rent receipt dated 04.07.07 for rent of July 2007 and rent receipt dated 04.01.08 for Jan 2008, both @Rs.5,500/- per month duly signed by Smt. Shashi Sharma, instead of Shashi Rani Sharma, for his house T-21/B, Waard-3, Mehrauli, New Delhi. Thus, expense of rent is Rs.66,000 (5500x12) during 2007-08.

Besides above, scrutiny of ITRs in RB Sharma (DOB 01.01.1960), (PAN AHKPS1848M) as per copies of ITRs provided by the accused are as under :-

Assessment year	Expense towards rent as per HRA exemption claimed by the accused.
1999-2000	HRA exemption Rs.22,532 as per Form-16

2000-01	Not available HRA exemption Rs.22,532 on the basis of previous year detail.
2001-02	HRA exemp. 23,164 as per computation sheet with ITR.
2002-03	HRA exemption Rs.24,154 as per Form-16
2003-04	HRA exemp. 24,154 as per Form-16
2004-05	HRA exemp. 25,800 as per computation sheet with ITR.
2005-06	HRA exemp. 38,685 as per computation sheet with ITR.
2006-07	Rs.58,200 as per rent receipts given to DJB.
2007-08	Rs.58,800 as per rent receipts given to DJB.
2008-09 filed on July 2008	Rs.66,000 as per rent receipts given to DJB.
2009-10 filed on 29.07.2009	HRA exemption Rs.62,165 as per Form-16
2010-11 filed on 27.07.2012	HRA exemption Rs.92,376 as per Form-16
2011-12 filed in July 2011	HRA exemption of Rs.86,112 as per computation sheet with ITR.
2012-13 filed on 03.08.12	Has taken house rent exemption of Rs.88,704 as per computation sheet with ITR. HRA exemption of Rs. 4354 for 6 months upto 16.09.11
<b>Total expenditure of the accused on house rent</b>	<b>Rs. 6,49,028</b>

Thus expenditure of Rs.6,49,028/- of the accused on house rent has been added as income from rent is being considered as claimed by his wife in her ITRs.

**Total expenditure under Statement D head comes to Rs.47,48,973/-**

**The details of assets, income and expenditure in respect of accused RB Sharma in the format of statement A,B,C,D is attached as Annexure-I. List of witnesses and documents are attached as Annexure-II and Annxure-III respectively.**

**Regarding family members of the accused, investigation has revealed that RB Sharma got married in the year 1985 to Smt. Shashi Rani Sharma. She was not employed with any firm except for a brief period as a teacher in Prince Public School, Mehrauli from April 1992 to June 1993 during which she got a monthly salary of Rs.750/-. ITRs have been filed showing her business/tuition/rental income.**

**Investigations regarding assets/income/ expenditure in respect of Smt. Shashi Rani Sharma, wife of RB Sharma disclosed that a plot measuring 250 sq. yards plotat khasra no. 1451 and 1452, Ruchi Viuhar, Village Rangpuri, Vasant Vihar, New Delhi was**

purchased in year 2007 in the name of accused RB Sharma and Smt. Shashi Rani Sharma for Rs.1,00,000/- and payment was made vide cheque no. 662545 dated 19.10.2007 drawn on Canara Bank, Mehrauli Branch, from A/c no. 4810 in the name of Smt. Shashi Rani Sharma. No construction has been made on this plot.

Investigations disclosed that 133 sq. yards plot no. T-21/B, Ward no. 3, Khasra no. 1161/1, Mehrauli, New Delhi-110030 was purchased for Rs.30,000/- in cash on 03.04.1991 in the name of Smt. Shashi Rani Sharma w/o accused RB Sharma from Sh. Sunil Krishan Aggarwal S/o Sh. Sri Krishan Das Aggarwal, R/o 92, Anand Lok, New Delhi. Statement of Sh. Sunil Krishan Aggarwal, seller has been recorded who proved the aforesaid transaction.

Ground floor was constructed on the said plot no. T-21/B in the year 1991-92 and first & half of the second floor in the year 1997-98. In this house, accused is residing with his family since 1991-92. As per valuation of the building by the income tax

authority, cost of construction is Rs.9,56,945. Accused RB Sharma has claimed that he incurred an amount of Rs.5,11,750/- only on construction of the said building. He produced two diaries purportedly maintained by him having expense details on construction and some katcha bills/slips for purchase of the materials. Since there is no independent witness to prove the claim of the accused, construction cost as arrived by income tax authority has been taken into account.

A plot measuring 82 sq. yds at T-21/D, Khasra no. 1151/3, Mehrauli, New Delhi was purchased in year 1997 in the name of Smt. Shashi Rani Sharma from Sh. Kishan Chand Sachdeva, s/o Sh. Jamna Dass Sachdeva R/o 1008/7, ward no. 8, Mehrauli, New Delhi-30 on 17.11.1997. During search original copy of GPA, Receipt, Will, Agreement to Sell, Affidavit and possession letter were seized. The cost is not mentioned in the GPA or receipt. Sh. Kishan Chand Sachdeva had purchased the said plot for Rs.40,000/- from Sh. Mukesh Kumar in Jan 1997 as per seized

records. Sh. Anand Prakash Khattar, the witness to the GPA, has been examined who proved the aforesaid transaction of Rs.40,000/-.

Smt. Shashi Rani Sharma has shown an income of Rs.22.38 lakhs in her ITRs for the FY 1997-98 to 2011-12. The income has been shown on account of house rent received in respect of house at 21/B, Mehrauli and H. No. 21/D, Mehrauli. Income from tuition is shown from FY 2004-05 to 2010-11. Notice was issued to her u/s91 CrPC to provide evidence in support of her income reflected in the ITRs including tuition income. She responded that she does not remember name of any student to whom she had given tuition. It can be reasonably presumed that person would remember at least a few students to whom the tuition has been given, especially since such income has been claimed till the year 2011. Therefore, income from tuitions as claimed in the ITRs has not been considered. However, she had given names of 4 tenants who stayed in the house, out of which 3 were

examined and they all admitted the fact of renting of the house to them.

Regarding jewellery items, RB Sharma had declared only 75 gms gold in his first APR submitted in the year 1996 and one item of 68 gm was found available in the locker, from which it can be reasonably presumed to be the same item in the possession of the officer as Streedhan. Valuer Sh. Varun Jain in his statement has stated that the designs of the remaining items are post 1997, but the year of acquisition could not be ascertained. The cost of remaining item has been calculated as Rs. 2.12 lakhs. Therefore, the same can be considered as the asset acquired by Smt. Shashi Rani Sharma during the check period.

Smt. Shashi Rani Sharma has paid Rs.2,85,000/- towards premiums of insurance policies. She had also incurred an amount of Rs.2 lakhs towards purchase of a car.

Smt. Shashi Rani Sharma has some bank

balance/FDs in her name. There are some bank accounts in joint names of Smt. Shashi Rani Sharma and RB Sharma. There is no substantive amount in the aforesaid bank accounts, except an account in which there is balance of Rs.14,86,900/-. In this account, sale proceeds of the plot situated at Mathura in the name of RB Sharma was credited, and therefore, it can reasonably be presumed that the said account was mainly belongs to RB Sharma.

Thus, Income, Assets and expenditure in respect of Smt. Shashi Rani Sharma during the check period are as follows :-

<b>Rental Income of Smt. Shashi Rani Sharma as shown in ITRs</b>	<b>Rs.17,59,588/-</b>
<b>Income from Prince Public School</b>	<b>Rs.11,250/-</b>
<b>Income from LIC Premium</b>	<b>Rs.92,911/-</b>
<b>Income from Bank Interest</b>	<b>Rs.32,809/-</b>
<b>Total Income during check period</b>	<b>Rs.18,96,558/-</b>
<b>Assets of Smt. Shashi Rani Sharma</b>	<b>Rs.14,78,883/-</b>
<b>Expenditure of Smt. Shashi Rani Sharma</b>	<b>Rs.4,85,000/-</b>
<b>Assets and Expenditure of Smt. Shashi Rani Sharma</b>	<b>Rs.19,63,883/-</b>

In view of above calculation, it is found that income of Smt. Shashi Rani Sharma is less by about

**Rs.67,000/- than assets/expenditure in her respect during the check period. Therefore, it is established that she did not have additional income to support expenditure/assets acquired by RB Sharma. Thus, the income of assets/expenditure in respect of Smt. Shashi Rani Sharma has not been included in the calculation of DA in respect of RB Sharma.**

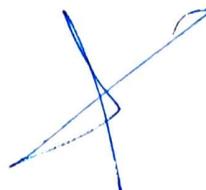
**Accused RB Sharma has two sons namely Abhishek Kumar Sharma (DOB:03.06.1988) and Paras Kumar Sharma (DOB : 19.12.1990). Both the sons started filing ITRs after turning 19 years in which they have shown income from tuition/business.**

**Abhishek Kumar Sharma after doing B.Tech from NSIT, Dwarka, Delhi, joined Microsoft in September, 2009 and is living separately from his parents in Hyderabad since then, Abhishek Kumar Sharma filed first ITR for FY 2008-2009.**

**Younger son Paras Kumar Sharma did B. Tech from GL Bajaj Institute, Greater Noida and passed out in 2012, i.e. after the check period. Paras Kumar**

Sharma filed first ITR in FY 2010-2011. In his ITRs, Paras Kumar Sharma has shown income of Rs.1.61 lakhs from business and profession in FY 2010-11 and Rs.1.85 lakhs in the FY 2011-12.

Abhishek Kumar Sharma has shown income of Rs.1.88 lakhs from business and profession in the FY 2008-09. During investigation, both the sons could not provide any evidence of their source of income from profession/business. Filing of IT returns by itself cannot lead to a conclusion that it was a legitimate income. The job of IT Department is not to verify that the income reflected in the ITR is genuine but to ensure that applicable income tax has been paid on the income reflected in the ITR by the assessee. As both the sons have failed to provide any evidence of their income and ITRs were got prepared and filed by the accused. It can be reasonably presumed that it was done to legitimate the ill-gotten wealth of RB Sharma. Therefore, no benefit of said income reflected in the ITRs of both sons can be given to them.



Investigations has revealed that no asset in the name of Abhishek Kumar Sharma was acquired in his name before he was employed in Microsoft on 07.09.2009.

There is a bank balance of Rs.21,278/- in A/c no. 10628715796 in the name of Abhishek Kumar Sharma maintained with SBI, Mehrauli in which a scholarship amount of Rs.34,720/- was deposited during the check period. It can reasonably assumed that about Rs.13,000/- was spent by Abhishek Kumar Sharma for his own purposes. Thus, there is no need to take this income/balance in account in the calculation of DA of RB Sharma.

Abhishek Kumar Sharma has incurred an amount of Rs.20,000/- towards purchasing of IIFCL bonds. He has incurred an amount of Rs.3 lakhs towards making payments for insurance policies.

Investigations revealed that Abhishek Kumar Sharma had paid an amount of Rs.3,75,000/- from Sep 2009 to Sep 2011 towards house rent and submitted house rent receipts as well as claimed income tax relief

on house rent allowances. Letter dated 15.04.14 has been received from Microsoft.

**Income & Assets of Abhishek Kumar**

Sharma during the check period are as follows :-

<b>Net Salary income of Abhishek Kumar Sharma</b>	<b>Rs.13.95 lakhs</b>
<b>Rent paid as per ITRs</b>	<b>Rs.3.75 lakhs</b>
<b>Assets as bank balance and FD</b>	<b>Rs.7.22 lakhs</b>
<b>Purchase of Insurance policy</b>	<b>Rs.3 lakh</b>
<b>Purchase of Infrastructure bond of IIFCIL</b>	<b>Rs.20,000/-</b>

Thus, after these expenditure/investment which are on record, he would be left with no savings. It can reasonably be presumed that since he was staying along at Hyderabad for 2 years he would have incurred some amount on his household expenditure. It would therefore be fair to conclude that income/expenditure of Abhishek Kumar Sharma is independent from that of his father and thus the same has not been added in the income/expenditure of RB Sharma for the purpose of calculation of DA.

There was not source of income of Paras

**Kumar Sharma during the check period.**

**In view of the above discussion, it would not be prudent to include the income or assets of Abhishek Kumar Sharma and Paras Kumar Sharma in the calculation of DA of RB Sharma.**

**As discussed above, it is seen that income of Abhishek Kumar Sharma and Smt. Shashi Rani Sharma are marginally less than their assets/expenses, which are ignorable. Therefore, income/assets/expenses of RB Sharma only have been taken into consideration for DA calculation.**

**The following benefits have been given to the accused while calculating the DA against him, in absence of admissible evidence :-**

**i). A car was purchased in the name of Smt. Shashi Rani Sharma on 10.04.2004. However, expenses for insurance bills, service/repair bills, running cost of the car etc have not been taken into account in the absence of initial odometer reading as on 10.04.2004, other bills etc.**

**ii). Abhishek Kumar Sharma has almost no saving as**

discussed above. In addition, he would have incurred  
✱ substantial amount towards his lodging/boarding at  
Hyderabad from Sep 2009 to Sep 2011, which has not  
been considered.

iii). Smt. Shashi Rani Sharma has shown her income in  
her ITRs. It is reasonable to presume that she might  
have incurred personal expenses from her income, which  
have not been considered.

iv). Expense on water/electricity bills has not been  
added in the expenditure head, as these expenses have  
been considered falling under 1/3<sup>rd</sup> expense of the  
accused.

v). Benefit of agricultural income has been extended to  
the accused largely on the basis of his own submission.

vi). Cost of plot measuring 250 sq. yds at 1451-1452,  
Ruchi Vihar, Rangpuri, Vasant Vihar, New Delhi has been  
considered as only Rs. 1 lakh as per GPA though the  
Sub-Registrar, Delhi valued the same as Rs. 14.5 lakh.

vii). Value of household articles amounting to Rs.1.44  
lakh has been taken as told by accused himself, which

appears to be on the lower side.

viii). Household expenditure has only been taken as 1/3<sup>rd</sup> of the salary which is itself a very conservative estimate considering that he had two school going children during the relevant period. Both children managed to get admission into Engineering Colleges, but in the absence of any proof of expenditure on coaching, books, etc, no expense has not been taken on this account.

ix). No expenditure on maintenance of house at Mehrauli has been considered in absence of any authentic evidence.

The above DA in respect of accused RB Sharma only has been worked out after giving the above benefit of doubt to the accused. The calculation of DA in respect of accused RB Sharma only is as under :-

Sl. No.	Particulars	Amount (in Rs.)
1.	Assets at the beginning of check period (Stm A)	25,333
2.	Assets at the end of check period (Stm B)	61,47,953
3.	Assets acquired during the check period (B-A)	61,22,620
4.	Income during the check period	75,72,250

	(statement C)	
5.	Expenses during the check period (Stm D)	47,48,973
6.	Likely savings (Income stm. C- Expenditure (Stm. D)	28,23,277
7.	DA (Assets – Likely savings)	32,99,343
8.	% of D.A (DA/Income X 100)	43.57

That the aforesaid facts & circumstances establish that accused RB Sharma is found in possession of disproportionate assets worth Rs.32,99,347/- i.e.43.57% and thus thereby committed offence punishable u/s 13(2) r/w 13(1) (e) of the Prevention of Corruption Act 1988.

That the sanction for prosecution of accused Ram Bharosay Sharma @ RB Sharma has been obtained from the competent authority which is attached herewith.

It is, therefore, prayed that accused Ram Bharosay Sharma @ RB Sharma, Assistant Engineer, Delhi Jal Board, Delhi may be summoned and tried in accordance with law.

As per Annexure-I of the chargesheet,

the details statement(s) / table(s) i.e. with regard to the assets, income, expenditure of accused, as mentioned in the chargesheet are reproduced as under :

**Statement A : (Assets at the beginning of check period i.e. 02.11.1987)**

**Statement B : (Assets at the end of the period of check i.e. on 16.09.2011)**

**Statement C : (Income of accused during the check period) &**

**Statement D : (Expenditure during the period of check)**

**Annexure-I**

**Statement-A**

**(Assets at the beginning of check period i.e. 02.11.1987)**

<b>Sl. No.</b>	<b>Particulars of assets</b>	<b>Amount (in Rs.)</b>
<b>1.</b>	<b>Savings from Income of accused R.B. Sharma from two private firms M/s. J. S. Construction and M/s. Organic India from July 1985 to Oct. 1987</b>	<b>25,333</b>
<b>2.</b>	<b>Agriculture income of the accused during 1975-76 to 1986-87 from his agricultural ancestral land about 2.974 ha(39 bigha) at his native village Kila, Tehsil Beswan, Aligarh, UP,</b>	<b>0</b>

	acquired during 1967-73.	
	<b>Total</b>	<b>25,333</b>

**Statement – B**

**(Assets at the end of the period of check i.e. on 16.09.2011)**

SI No.	Particulars of assets	Amount (in Rs.)
1.	Purchase of flat bearing no. A-1406, CASA Royale at GH-10, Sector -1, Greater Noida, UP in the project of Earthcon Universal Infratech Pvt. Ltd in the name of Sh. R B. Sharma.	6,74,000
2.	Cash observed during the search on 16.09.2011	23,390
3.	Household items found during search on 16.09.2011	1,44,500
4.	Balance as on 16.09.2011 in Bank A/c No. 16711000005524 at HDFC Bank, Mehrauli in the name of Sh. RB Sharma/Smt. Shashi Rani Sharma	14,86,900
5.	Balance as on 16.09.2011 in Bank A/c no. 04401000019168 at HDFC Bank, Naraina Branch in the name of Sh. R. B. Sharma/smt. Shashi Rani Sharma	77,703
6.	Balance as on 16.09.2011 in Bank A/c no. 04401930001886 at HDFC Bank, Naraina Branch in the name of Sh. Abhishek Kumar Sharma/ Sh. R. B. Sharma	25,933
7.	Balance as on 16.09.2011 in Bank A/c no. 16711000007295 at HDFC Bank, Mehrauli in the name of Paras Kumar Sharma.	27,918
8.	Balance as on 16.09.2011 in Bank A/c no. 10628657721 at SBI Mehrauli Branch, in the name of Sh. R. B. Sharma/Smt. Shashi Rani Sharma	268
9.	Balance as on 16.09.2011 in Bank PPF A/c no.	1,84,153

	10628745222 at SBI, Mehrauli Branch in the name of Sh. R. B. Sharma	
10.	Balance (Interest Credit of STDR on 23.08.2011) as on 16.09.2011 in bank STDR A/c no. 30586875982 at SBI, Mehrauli Branch in the name of Sh. R. B. Sharma.	16,448
11.	STDR as on 16.09.2011 made from A/c no. 30586875982 at SBI, Mehrauli Branch in the name of Sh. R. B. Sharma. Original STDR of Rs.66,448 was seized during search.	50,000
12.	Balance as on 16.09.2011 in Bank A/c no. 2018101002986 (old A/c no. 2986) at Canara Bank, Mehrauli Branch in the name of Sh. R. B.Sharma	5,967
13.	Balance as on 16.09.2011 in Bank A/c no. CLSB/030118 at Corporation Bank, Vasant Kunj in the name of Sh. Ram Bharose Sharma/GPF B-6175	28,34,676
14.	Balance as on 16.09.2011 in Bank A/c no. KCC/01/090434 at Corporation Bank, Vasant Kunj Branch in the name of Sh. Ram Bharose Sharma	3,00,000
15.	Balance as on 16.09.2011 in Bank A/c no. SB/01/830058 at Corporation Bank, Vasant Kunj Branch in the name of Sh. Ram Bharose Sharma	61,926
16.	Balance as on 16.09.2011 in Bank A/c no. 0622000100151040 at PNB, Sarvodya Enclave Branch in the name of Sh. Ram Bharose Sharma	72,962
17.	Balance as on 16.09.2011 in Bank in FD A/c no. 0622003107996030 at PNB, Sarvodya Enclave Branch in the name of Sh. Ram Bharose Sharma. Original FD for Rs.1,23,428 dated 29.01.2009 was seized during search. Originally it was made for Rs.50,000 as per statement of Sh. R. B. Sharma.	1,61,209
	<b>TOTAL</b>	<b>61,47,953</b>

**Statement – C**  
(Income of accused during the check period)

Sl.N o.	Particulars of Income	Amount(in Rs.)
1.	Net salary of Ram Bharosay Sharma from 02.11.1987 to Sep 1996. Gross salary was Rs.3,67,805/-	3,33,835
2.	Net salary of Ram Bharosay Sharma from Oct 1996 to Dec 2005. Gross salary was Rs.13,60,361 and Income Tax deduction was Rs.174 during this period.	11,26,168
3.	Net salary of Ram Bharosay Sharma from Dec 2005 to Dec 2008	8,63,756
4.	Net salary of Ram Bharosay Sharma from Jan 2009 to 16.09.2011 from DSIIDC. Gross salary was Rs.14,24,804. Income tax deduction is Rs.82,244.	12,43,040
5.	Sale Proceeds of commercial plot no. C-8, UP Avas Vikas, Mathura in Krishna Vihar Yojna in the name of Sh. R.B. Sharma	8,00,000
6.	Payment made to Sh. R.B. Sharma by LIC for policy no. 114842404 vide cheque no. 0815430 Drawn on corporation bank KG Marg.	25,000
7.	Payment made to Sh. R. B. Sharma by LIC for policy no. 110832251 commencing from 28.05.1990 in the name of Sh. Ram Bharosay Sharma.	58,562
8.	Payment made to Sh. R. B. Sharma by LIC for policy no. 330043052 in the name of Sh. R. B. Sharma commencing from 28.08.1993 at LIC, 12-H Branch, Rohini.	44,450
9.	Payment to Ram Bharose Sharma by LIC for his policy no. 113134042 for which single premium of Rs.50,000/- was paid on 31.08.2004. He surrendered this policy and an amount of Rs.65,167/- was paid to Sh. R. B. Sharma by LIC vide cheque no. 0320375 dated	65,167

	12.02.2007.	
11.	Interest Credit of Rs.1,01,175 till 16.09.2011 in Bank A/c No. 0622000100151040 at PNB, Sarvodya Enclave Branch in the name of Sh. Ram Bharose Sharma	1,19,790
12.	Interest Credit of Rs.60,120 till 16.09.2011 in Bank in FD A/c No.0622003107996030 at PNB, Sarvodya Enclave Branch in the name of Sh. Ram Bharose Sharma. As per statement of Sh. RB Sharma, FD was made originally for Rs.50,000 on 22.03.1996 and total balance is Rs.1,61,209 and hence interest is Rs.1,11,209	1,11,209
13.	Interest Credit of Rs.5,20,269 till 16.09.2011 in Bank A/c No.SB/01/830058, CLSB/01/030118 and FD A/c no. KCC/01/090434 at Corporation Bank, Vasant Kunj Branch in the name of Sh. Ram Bharose Sharma	5,20,269
14.	Interest Credit of STDR on 23.08.2011, as on 16.09.2011 in Bank STDR A/c No. 30586875982 at SBI, Mehrauli Branch in the name of Sh. RB Sharma	16,448
15.	Interest Credit till 16.09.2011 in Bank A/c No.10628657721 at SBI, Mehrauli Branch in the name of Sh. RB Sharma/Smt. Shashi Rani Sharma	30,005
16.	Interest Credit till 16.09.2011 in Bank PPF A/c No.10628745222 at SBI, Mehrauli Branch in the name of Sh. RB Sharma	86,353
18.	Agriculture income of RB Sharma as per claim of the accused on the basis holding of agriculture land from 1987 to 1995 (Rs.3,33,000) and APRs from 1996 to 2011 (Rs.14,82,000)	18,15,000
19.	Receipts from Ganesh Stockinvest Pvt. Ltd.	2,27,167
21.	Payment to Sh. Ram Bharose Sharma for his policy no. 113914438 in his name commencing from 01.01.200... at LIC11-J, Branch till 16.09.2011. An amount of Rs.30,000/- was paid to Sh. R B Sharma by LIC vide cheque no.	30,000

	0339631 dated 05.01.2008.	
22.	Interest Credit till 16.09.2011 in Bank A/c No.04401600000145 at HDFC Bank, Naraina Branch in the name of Sh. RB Sharma/Smt. Shashi Rani Sharma	1,816
26.	Interest Credit till 16.09.2011 in Bank A/C no. 04401000019168 at HDFC Bank, Naraina Branch in the name of Sh. R. B. Sharma/Smt. Shashi Rani Sharma	1,276
29.	Interest Credit till 16.09.2011 in Bank A/c No.04401930001886 at HDFC Bank, Naraina Branch in the name of Sh. Abhishek Kumar Sharma /Sh. RB Sharma	12,844
30.	Interest Credit till 16.09.2011 in Bank A/c No.16711000005524 at HDFC Bank, Mehrauli in the name of Sh. RB Sharma/Smt. Shashi Rani Sharma	1,442
31.	Interest Credit till 16.09.2011 in Bank A/c No.16711000007295 at HDFC Bank, Mehrauli in the name of Paras Kumar Sharma	4
32.	Interest Credit of Rs.8,071 till 16.09.2011 in Bank A/c No.2018101002986 (old A/c no. 2986) at Canara Bank, Mehrauli Branch in the name of Sh. RB Sharma	28,960
	<b>Total Income</b>	<b>75,72,250</b>

**Statement – D**  
**(Expenditure during the period of check)**

SI No.	Particulars of expenses	Amount (in Rs.)
1.	One third of salary of accused RB Sharma Gross salary of Rs.41,39,216/-. Total income tax is Rs.1,26,026/- as per ITRs upto AY 2011-12. Thus, the gross salary after deducting income tax is Rs.40,13,190/- and one third of Rs.40,13,190/- is Rs.13,37,730/-.	13,37,730
2.	Payments made by Sh. RB Sharma and	20,000

	<b>Abhishek Kumar Sharma for infrastructure bond of IIFCL Ltd.</b>	
<del>3.</del>	<b>Premium of Rs.1 Lakh paid to Birla Sun Life Insurance policy no. 003803585 commencing from 21.01.2010 in the name of Sh. Ram Bharose Sharma.</b>	<b>29,008</b>
4.	<b>Premium paid on LIC policy no. 110832251 commencing from 28.05.1990 in the name of Sh. Ram Bharose Sharma</b>	<b>22,500</b>
5.	<b>Amount paid by RB Sharma till 16.09.2011 to LIC for policy no. 111734909 commencing from 28.05.1994. No payment has been made against this policy.</b>	<b>26,010</b>
6.	<b>Premium paid on LIC policy no. 114842404 in the name of Sh. RB Sharma</b>	<b>70,385</b>
7.	<b>Premium paid on LIC policy no. 114721129 in the name of Sh. Ram Bharose Sharma</b>	<b>58,232</b>
8.	<b>Premium paid on LIC policy no. 330043052 in the name of Sh. RB Sharma commencing from 28.08.1993 at LIC, 12-H Branch, Rohini</b>	<b>32,988</b>
9.	<b>Amount paid by RB Sharma for his policy no. 113134042 at LIC, 11-J, Branch for which single premium of Rs.50,000/- was paid on 31.08.2004. He surrendered this policy and an amount of Rs.65,167/- was paid to Sh. R B Sharma by LIC vide cheque no. 0320375 dated 12.02.2007.</b>	<b>50,000</b>
10.	<b>Amount paid by RB Sharma to LIC for his policy no. 113914438 in his name commencing from 01.01.2004 at LIC, 11-J, Branch till 16.09.2011. Annual premium of Rs.12,091/- is being paid. The policy is still in force.</b>	<b>97,052</b>
11.	<b>Amount paid by RB Sharma for his policy no. 114840339 at LIC, 11-J, Branch for which single premium of Rs.50,000/- was paid on 28.03.2006. The policy is still in force and nothing has been paid to Sh. RB Sharma till 16.09.2011.</b>	<b>50,000</b>



12.	School fee of Paras Kumar Sharma to New Green Field Junior School for class I to IV	22,245
<del>13.</del>	School fee of Abhishek Kumar Sharma to New Green Field Junior School for class I to IV	24,565
14.	School fee of Paras Kumar Sharma to New Green Field School, Saket for class V to XII	72,610
15.	School fee of Abhishek Kumar Sharma to New Green Field School Saket for class V to XII	41,550
16.	Fee etc paid for Abhishek Kumar Sharma to NSIT, Dwarka New Delhi	101,300
17.	Fees paid for Paras Kumar Sharma for doing B.Tech(IT) from GL Bajaj Institute of Technology & Management plot no. 2, Knowledge Park-III, Greater Noida, UP, from 2008-09 to 2011-12.	4,46,700
18.	Payments made for commercial plot no. C-8, UP Avas Vikas, Mathura in Krishn Vihar Yojna, by Sh. R. B. Sharma	6,65,934
19.	Investment through SMC Global Securities Ltd. through his trading Account n. HQA0661 and D. Mat Account no.1201910101834020 by Sh. R. B. Sharma	3,00,000
20.	LTC difference in the year 2010 paid by RB Sharma in the year 2010 and 2011. 6324 +12223	18,547
21.	Nokia phone purchased vide bill no. 127 dt. 01.07.05 from Mobile Arcade, 1091, Ward no. 1, Next to Ambavate Complex Mehrauli, New Delhi-30.	5850
22.	Expdt incurred vide cheque no. 840089 dated 10.03.2007 for Rs.60,000/- has been issued from account no.2986 Canara Bank in favour of Ganesh Stock Investment Pvt. Ltd.	5,40,000
23.	Payments made to MTNL by RB Sharma for landline no. 26644117 installed in his house.	66,739
24.	Expenditure of accused RB Sharma on house rent as rent paid/claimed for income	6,49,028

	<b>tax benefits.</b>	
		<b>TOTAL</b>
		<b>47,48,973</b>

**The calculation of DA :-**

Sl. No.	Particulars	Amount (in Rs.)
1.	<b>Assets at the beginning of check period (Stm A)</b>	<b>25,333</b>
2.	<b>Assets at the end of check period (Stm B)</b>	<b>61,47,953</b>
3.	<b>Assets acquired during the check period (B-A)</b>	<b>61,22,620</b>
4.	<b>Income during the check period (Statement-C)</b>	<b>75,72,250</b>
5.	<b>Expenses during the check period (Statement-D)</b>	<b>47,48,973</b>
6.	<b>Likely savings (Income stm C- Expenditure stm D)</b>	<b>28,23,277</b>
7.	<b>DA (Assets – Likely savings)</b>	<b>32,99,343</b>
8.	<b>% of D.A (DA/Income X 100)</b>	<b>43.57</b>

2. Initially a closure report was filed by the CBI against the accused on 13.05.2014. However, the Ld. Special Judge PC Act, (CBI)-06 was not satisfied with the said closure report and the CBI was directed to conduct further investigation in the matter in terms of the law laid down and procedure established vide detailed order dated 02.12.2014. Thereafter, the IO in compliance of the said directions filed a chargesheet against the accused after thorough investigation on

01.04.2016. Thereafter, cognizance of the offence(s) u/S. 13(2) r/w 13(1)(e) of PC Act, 1988 was taken against the accused and he was summoned to appear vide order dated 04.05.2016.

3. Vide detailed order on the point of charge(s) vide order dated 08.05.2018, a charge u/S. 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act was directed to be framed against the accused. Formal charge(s) were framed on 16.05.2018 as above, to which accused pleaded not guilty and claimed trial.

4. Thereafter, prosecution has examined 40 witnesses in support of its case, the description of which is given as under :

<b>PW No.</b>	<b>PW NAME</b>	<b>SUMMARY OF DEPOSITION</b>	<b>DOCUMENTS PROVED</b>
1.	Jitender Kumar	He was Account Assistant in personal division DSIIDC and vide letter Ex.PW1/A signed by Sh. Pravir Saxena, he submitted personal file maintained in the office Ex.PW1/B, pertaining to accused.	D-71
2.	Vinod Kumar	He was Senior Manager, Punjab National Bank, IRMD Department and on the direction of his senior	D-3, D-10

		officer, he accompanied CBI team during the search conducted at the house,of accused ,the search list of which is Ex.PW2/A & observation memo is Ex.PW2/B.	
3.	Duli Chand,	He was LDC, Education Department and on the direction of his senior officer, he accompanied CBI team during the search conducted at house of accused , the search list of which is at Ex.PW2/A and observation memo is Ex.PW2/B.	D-3, D-10
4.	Rajender Kumar Arora	He was Head Clerk, CR cell, Delhi Jal Board that vide letter Ex.PW4/A signed by Vineet Kumar, he submitted personal file Ex.PW4/C of accused and also letter Ex.PW4/B.	D-69
5.	Lokesh Chand Parekh	He was AAO in South West-I, Delhi Jal Board and he provided salary details Ex.PW5/A, of accused through vigilance of Delhi Jal Board.	D-13
6.	Kallu Ram,	He was Head Clerk in Delhi Jal Board, Chandrawal and he prepared salary details from March 1990 to September 1996 and proved the salary statement as Ex.PW6/A and Ex.PW6/B.	D-13,D-14

7.	Raja Bhattacharya	He was GM commercial in Earthcon Universal Infratech Pvt. Ltd. And he provided documents pertaining to flat bearing no. A-1406, Casa Royale, GH-10, Sector-1, Noida which was booked in name of accused during the check period and an amount of Rs.6,74,000/-, was paid by him against the said flat and the documents proved by him are Ex.PW7/A, Ex.PW7/B and Ex.PW7/C (colly).	D-16
8.	K.B. Tayal	He was Assistant Accounts Manager in salary Section DSIDC, Delhi and he provided salary details of accused vide Ex.PW8/A, Ex.PW8/B, letter Ex.PW8/C and documents Ex.PW8/D.	D-15, D60
9.	Ravindran	He was AAO, Delhi Jal Board, he provided documents i.e. salary details Ex. PW9/B, statements I to VI mark PW9/Y, attested copy of ECR Register Ex.PW9/C, personal file Ex.PW9/D, service book Ex.PW9/E through letter Ex.PW9/A signed by Sh. Parvesh Tyagi, qua accused.	D-36,D-61,D-69
10.	Sunil Krishan Aggarwal,	He sold a plot at Mehrauli Ward no. 3 to Shashi Rani Sharma for consideration	

		amount of Rs.30,000/- through GPA and agreement to sell, the copy of which is Mark PW10/X.	
11.	Deepak Gagneja	He was posted as personal banker authorizer in HDFC Bank Meharuli branch and vide letter Ex.PW11/A, he forwarded documents Ex.PW11/B and Ex.PW11/C	D-46
12.	Chetan Kumar,	He was Senior Manager Corporation Bank, Mathura Branch, UP that he produced cheque Ex.PW12/B of the account no. CLSB 80161 issued by account holder Lajjawati through his letter Ex.PW12/A.	D-44
13.	Amit Kumar	He was Deputy Manager, SBI Life Insurance, Darya Ganj, and at that time, Virendra Choudhary was working as processing centre head in SBI Life Insurance and vide letter Ex.PW13/A, documents Ex.PW13/B pertaining to Life Insurance in the name of Ms. Shashi Rani Sharma was forwarded.	D-26
14.	Dheeraj Pal Singh	He was State Management Officer UP Housing and Development Board, Mathura that vide letter Ex.PW14/A, he forwarded	D-35

		documents pertaining to allotment of commercial plot to accused and that accused had paid total amount of Rs.6,65,934/- (six lakhs sixty five thousand nine hundred thirty four) towards said plot.	
15.	Rajendra Kumar,	Junior Engineer, UP Jal Nigam, his wife Lajjawati had purchased a plot situated at Krishan Vihar Colony, Mathura from accused for a consideration of Rs.8 lakhs and he proved cheque Ex.PW12/B which bears signature of Lajjawati at point A and copy of sale deed Ex.PW15/A bears her signature at point A.	D-33
16.	Suresh Kumar	He was Assistant Valuation officer, Income-tax Department and he along with Pradeep Kumar Singh, JE did the valuation of house no. T-21/B, Ward No. 3, Mehrauli, the valuation report of which is Ex.PW16/A. The valuation cost is Rs.9,56,945 /-	D-64
17.	Robin Davis	He was Senior Manager, in Corporation Bank, Vasant Kunj, New Delhi that he supplied statement of accounts maintained in name of	D-49,D-50

		accused and same are Ex.PW17/B to Ex.PW17/J vide his letter Ex.PW17/A.	
18.	Devi Charan Sharma	He intended to buy plot from Subhash Chand Sharma for a consideration of Rs. 9,35,000/- and he paid consideration amount of Rs.8 Lakhs through various cheques mark PW18/X and PW18/Y of HDFC Bank having account no. 2681000034411 and later he came to know that the said plot belongs to the relative of Mr. Subhash Chand Sharma and the deal could not materialize and Subhash Chand Sharma returned Rs.8 Lakhs in cash to Devi Charan Sharma who later came to know that said property was sold to Smt. Lajjawati, W/o Rajendra Kumar.	
19.	Arun Tiwari	He was working as property dealer and he sold agricultural land village Rangpuri at Malikpur Koli, Teh. Vasant Vihar, for consideration amount of Rs.1 Lakh through GPA Ex.PW19/A, original agreement to sell with affidavit Ex.PW19/B (colly) which was executed by Smt. Shashi	D-4

		Rani Sharma and accused paid the said amount through cheque.	
20.	Anjali Shashtri	she sold her car bearing no. DL9CC0370 to Smt. Shashi Rani Sharma, wife of accused for consideration amount of Rs. 2 Lakhs and form 29 bears her signature at point A and same is Ex.PW20/A.	D-34
21.	Avisekh Sharma	He was posted as Assistant Manager, ICICI Bank, Vasant Vihar and he provided the statement of account Ex.PW21/A pertaining to Abhishek Kumar Sharma.	D-52
22.	Pratap Singh,	He was posted as Branch Manager, SBI, Mehrauli Branch and locker operation memo Ex.PW22/A and valuation report Ex.PW22/B were prepared in his presence and he also provided certified copy of account opening form Ex.PW22/B, Ex.PW22/E, Statements of account Ex. PW22/F, Ex.PW22/G, Ex.PW22/H, Ex.PW22/J and certificate Ex.PW22/K in the name of accused through letter Ex.PW22/C.	D-11, D-12, D-38
23.	Harpreet Singh	He was posted as Current Account Portfolio Manager in HDFC bank and Ms. Komal Khullar,	D-45

		Branch Manager of the said bank provided documents i.e. statement of account Ex.PW23/B, Ex.PW23/C, Ex.PW23/D, certificate Ex.PW23/E and copies of account opening form Ex.PW23/F vide letter Ex.PW23/A.	
24.	Pawan Kumar Sachdeva	He was posted as Manager, Punjab National Bank, Savodaya Enclave Branch and vide production cum seizure memo Ex.PW24/A, he provided debit and credit voucher, statements of accounts, original cheques and CTS image of cheques Ex.PW24/B, Ex.PW24/C and Ex. PW24/D pertaining to accused.	D-42,43
25.	J. K. Arora	He was posted as Clerk in Canara Bank, Mehrauli and he provided documents Ex.PW25/A and Ex.PW25/B signed by Sh. Paramjeet Kular and he also provided deposit receipts and cheques Ex.PW25/C.	D-39,D-40,D-41
26.	Chunni Lal Tanwar	He was posted as Inspector in Income-tax office and he submitted documents i.e. Income-tax returns of Abhishek Kumar Sharma along with letter Ex.PW26/A signed by his superior Sh.	D-57

		Rajiv Jain.	
27.	Pushp Lata	She was posted as Income-tax officer, Ward no. 46 (2) and she forwarded certified copy of ITR filed by you along with letter Ex.PW27/A and she also intimated vide his letter Ex.PW27/B that accused had not filed ITR except for assessment year 2012.	D-55
28.	Neeraj Tondon	He was posted as Inspector, Income-tax, ward-24 (3) and vide production cum seizure memo Ex.PW28/A, he provided certified copy of ITRs Ex.PW28/B and vide letter Ex.PW28/C, ITRs Ex.PW28/D was forwarded by Sh. Nand Ram Singh.	D-54,D-56
29.	Saurabh Sharma	He was posted as customer care officer BSCS Power Ltd and vide production cum seizure memo Ex.P-27, he handed over certified copy of documents in respect of electricity connection in the name of Smt. Shashi Rani Sharma (wife of accused).	D-58
30.	S. K. Suri,	He was posted as Chief Manager, LIC of India and vide letter Ex.PW30/A, he provided status report of policies Ex.PW30/B.	D-18
31.	Dr. Jayadev Sarangi	He was posted as Member Administration,	D-95

		Delhi Jal Board and he received request for grant of sanction for prosecution from CBI along with documents and after carefully examining the same, he accorded Sanction Ex.PW31/A.	
32.	Gurdeep Khosla	He was working as Lab Assistant, New Green Field School and he submitted Fee details Ex. PW32/A and Ex.PW32/B of Paras Kumar Sharma and Abhishek Kumar Sharma.	D-31,D-32
33.	Vikas Rathi	He was in vigilance department of Delhi Jal Board and Sh. Sanjay Gupta was Joint Director. Vigilance and vide letter Ex.PW33/A and Ex.PW33/B documents along with it were forwarded to CBI.	D-72
34.	Santosh Rana	He was working as Admin Officer in Ganeshi Lal Bajaj Institute of Technology and Management and he supplied fee details Ex.PW34/B and allotment letter Ex.PW34/C vide letter Ex.PW34/A.	D-29
35.	Ranjeev Lahkar	He was working with Microsoft India Ltd as Manager (HR) and he furnished letter along with documents Ex.PW35/A pertaining to salary of	D-68

		Abhishek Sharma.	
36.	Navneet,	<p>He was Secretary, Krishi Utpadan, Mandi Samiti, Khair. Aligarh and he proved that Aadhatiya bill, 9 R Prapatra Sankhya 48977/29 dated 06.06.2007 and vouchers 6 R no. 56078/64 dated 03.06.2009 and 56078/65 dated 04.06.2010 part of Ex.P-34 (colly) submitted by accused are not genuine as same has not been issued by the firm to whom these documents were issued by the Mandi Samiti.</p> <p>He also submitted his reply vide his letter dated 20.01.2015 along with reports Ex.PW36/A (colly) investigated by Mandi Nirikshak Chandrabhan Prasad and supervisor Prithvi Singh.</p>	D-76
37.	Varun Jain	<p>He was Government approved valuer of jewellery and on 24.05.2015, he was called by CBI for valuation of jewellery deposited in the locker of State Bank of India, Mehrauli, Delhi and after examination he submitted his valuation report Ex.PW37/B and locker operation memo Ex.PW37/A. He also submitted rate list of gold</p>	D-86,D-87

		and silver Ex.PW37/C.	
38.	Ram Kumar,	He was Manager (legal) SMC, Global Securities Ltd, and he supplied documents of Demat and trading account Ex.PW38/A (colly) and accused invested total amount of Rs.3 Lakhs in the said account on 27.04.2011 and 25.08.2011.	
39.	Dharamvir	He was Commercial Officer, MTNL, Hauz Khas and he provided payment details of telephone no. 26644117 installed in name of accused and from 01.02.1999 to 28.12.2011 he paid total amount of Rs.66,739/- and payment details is Ex.PW39/A.	D-63
40.	Kailash Sahu,	Investigating Officer / IO of this case. He was posted as Inspector, CBI ACB Delhi and the investigations of present case was entrusted to him and during investigation he collected documents from various departments, got evaluated of your house property T-21/B, Ward no. 3 Mehrauli and also recorded the statements of witnesses.	

5. Thereafter, statement of accused u/S. 313 CrPC was recorded in

which the entire case of the prosecution was put to the accused, to which the defence of the accused was as under :

**“IO did not fairly investigate the present case and filed incorrect charge sheet. IO deliberately not taken on record my legitimate income and my correct expenditure on record. IO did not record statement of Lajjawati and various witnesses, intentionally to implicate me in the present case. On account of my previous case RC No. DAI-2011-A-0014 and RC No. DAI-2011-A-0016, dated 16.09.2011, I have been implicated in the present case without any basis. I have not been charge sheeted in the above RC as CBI has filed the closure report. I am innocent and falsely implicated.”**

6. Thereafter, the accused in his defence has examined three witnesses namely DW1 Sh. Ram Hari Sharma, DW2 Sh. Subhash Chand Sharma and DW3 Smt. Shashi Rani Sharma.

7. I have heard Sh. Arvind Singh along with Ms. Rashmi Singh, Ld. counsel(s) for the accused Ram Bharosay Sharma and Sh. V. K. Pathak, Ld.PP for CBI at length and perused the record and also the written submissions filed on behalf of accused Ram Bharosay Sharma.



8. Ld.PP for CBI has relied upon following judgments in support of his contentions :

- (1) State of Madhya Pradesh Vs. Awadh Kishore Gupta 2004 CRI. L.J. 598;**
- (2) State of Maharashtra Vs. Wasudeo 1981 Cri. L.J. 884;**
- (3) Selvi J. Jayalalitha & Ors. Criminal Appeal No(s) 300-303 of 2017 decided by Hon'ble Supreme Court on 14.02.2017;**
- (4) CSD Swami Vs State 1960 Cr.L.J.SC 131;**
- (5) N.Ramakrishna Vs State of Andhra Pradesh 2009 Cr.L.J. 1767 SCN;**
- (6) State of Bihar Vs Lalu Prasad 2008 Cr.L.J. 2433, Patna;**
- (7) Jankiraman Vs State 2006 Cr.L.J SC 1232;**
- (8) State of Tamil Nadu by Inspector of Police (Vigilance) and Anti Corruption (2014) CCR 226 (SC 01).**

9. On the other hand, Ld. counsel(s) for accused have relied upon following judgments in support of their contentions :

- (1) Krishnanand Agnihotri Vs State of M.P AIR 1977 SC 796;**
- (2) M.Krishna Reddy Vs State Deputy Suptd.of Police AIR 1993 SC 313 ;**

- (3) State of Andhra Pradesh Vs J.Satya Narayan VII  
(200) SLT 43;**
- (4) State of M.P Vs Mohan Lal Soni (2000) 6 SCC  
338;**
- (5) Anand Bezbarnah Vs Union of India 1994  
Cr.L.J.;**
- (6) Rekha Nambiar, Bhojraj Teli Vs CBI 224 (2015)  
Delhi Law Times 379;**
- (7) DSP Chennai Vs. Inbasagaran AIR 2006 SC 552;**
- (8) M. Sreermulu Vs. State of A.P. 2003 Cr.L.J. 2956;**
- (9) Smt. Dimple Yadav Vs. Vishwanath Chaturvedi &  
Ors. Revision petition (civil) No. 348 of 2007 in writ  
(civil) petition no. 633 of 2005.**

10. At the outset, Ld.PP for CBI has argued that the prosecution has been able to make out its case against the accused beyond any shadow of doubt, as all the ingredients to make out a case u/S 13(1)(e) r/w Sec.13(2) of PC Act, 1988 has been established against the accused. He has further argued that the assets of accused are much more than his known sources of income. He has also argued that all the income tax returns filed by Smt. Shashi Rani Sharma, wife of accused and his sons Abhishek and Paras are not genuine, as the same had only been filed to somehow escape the rigors of PC Act.

He has further argued that merely by filing income tax return or paying income tax does not mean that the person who is filing the income tax return has the means or the income for which he is paying the tax. He further submits that the income tax authorities only assess the income(s) as per the income tax law and they are not concerned with the source of the same. Therefore, merely filing of income tax return does not make the source of the income as lawful. In support of this contention, he has relied upon judgment **Selvi J. Jayalalitha & Ors. Criminal Appeal No(s) 300-303 of 2017 decided by Hon'ble Supreme Court on 14.02.2017**, wherein it was held in para 183 as under :

**183. The import of this decision is that in the tax regime, the legality or illegality of the transaction generating profit or loss is inconsequential qua the issue, whether the income is from a lawful source or not. The scrutiny in an assessment proceedings is directed only to quantify the taxable income and orders passed therein do not certify or authenticate that the sources thereof to be lawful and thus of no significance vis a vis charge u/S. 51(1) e of the Act.**

It has been further held in para 184 therein under:

**184. That the decision is to emphasis that submission of income tax returns and the**

***assessment 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 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.***

Therefore, he has argued that accused has failed to give any satisfactory explanation regarding his disproportionate assets, which was found in his possession, therefore he is also liable to be convicted u/S 13(2) r/w 13(1)(e) of PC Act.

11. On the other hand, Id. Defence counsels have controverted the above arguments of Ld.PP for CBI. The Ld. Defene counsels have argued that Smt. Shashi Rani Sharma was having independent source of income for which she had also been filing income tax returns since the year 1997 and the relevant income tax return(s) have been placed and proved on record, according to which she had her own independent source(s) of income. Therefore, she was also contributing substantially in the household expenditure of the accused and as a consequence, the prosecution has wrongly taken 1/3rd of the income of the accused as non verifiable expenditure, in

lumpsum.

He has further argued that even otherwise the accused belonged to the family of well to do farmers as his family was having substantial land and all the daily consumable items like oil, vegetables, spices etc. used to be received by him from his village, therefore, non verifiable expenditure could not have been 1/3rd of his income, which in any case is the last resort, as per the settled law. He has further argued that both the sons of the accused namely Abhishek and Paras were also filing income tax returns, which have been proved on the record and they had also been contributing substantially to the household expenditure which has not been taken into account.

In any case, he has argued that as per settled law, the prosecution had to establish by leading evidence of definite character that certain properties / assets (included in the chargesheet) belonging to Shashi Rani Sharma, Paras Sharma and Abhishek Sharma were benami or that they were not the actual owner of the same and rather, it was the accused Ram Bharosay Sharma who was the real owner of the assets and the money for generating the said assets had been provided by accused. He has further argued that all the sources of income of Shashi Rani Sharma, Paras Sharma and Abhishek Sharma were bonafide and genuine. He has further argued that prosecution

had wrongly added various items into the assets as well as expenditure head of accused, which have to be deleted as per the written / oral submissions made by him and placed by him on the record.

He has, therefore argued that if the assets / income and the expenditure of the accused is calculated as per the settled law and CBI Manual, then the independent assets / income / expenditure of accused would be rather on the negative side and no case of disproportionate assets would be made out, as the income / likely saving(s) of accused are much more than assets of accused. Therefore, accused deserves to be acquitted.

12. I have gone through the rival contentions of the parties.

13. With regard to the ingredients of Section 13(1)(e) of Act, the same have been enunciated in judgment **2009 CRI.L.J.1767 "N. Ramakrishanaiah Vs. State of A.P.** The relevant paras of the said judgment are reproduced as under:-

**14. Section 13 of Prevention of Corruption Act, 1988 (in short the 'Act') deals with various situations when a public servant can be said to have committed criminal misconduct. Clause (e) of Sub-section (1) of the Section is applicable when the public servant or any person on his behalf, is in possession or has, at any time**

during the period of his office, been in possession for which the public servant cannot satisfactorily account of pecuniary resources of property disproportionate to his known source of income. Clause (e) of Sub-section (1), of Section 5 of the Old Act was in similar lines. But there have been drastic amendments. Under the new clause, the earlier concept of "known sources of income" has undergone a radical change. As per the explanation appended, the prosecution is relieved of the burden of investigating into "source of income" of an accused to a large extent, as it is stated in the explanation that "known sources of income" mean income received from any lawful sources, the receipt of which has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant. The expression "known source of income" has reference to sources known to the prosecution after thorough investigation of the case. It is not, and cannot be contended that "known sources of income" means sources known to the accused. The prosecution cannot, in the very nature of things be expected to know the affairs of an accused person. Those will be matters "specially within the knowledge" of the accused, within the meaning of Section 106, of the Indian Evidence Act, 1872 (in short, the 'Evidence Act').

15. The emphasis of the phrase "known sources of income" in Section 13(1)(e) (old Section 5(1)(e)) is clearly on the word "income". It would be primary to observe that qua the public servant, the income would be what is attached to his office or post, commonly known as remuneration or salary. The term "income" by itself, is classic and has a wide connotation. Whatever comes in or is received is income. But, however, wide the import and connotation of the term "income", it is incapable of being understood as meaning

**receipt having no nexus to one's labour, or expertise, or property, or investment, and being further a source which may or may not yield a regular revenue. These essential characteristics are vital in understanding the term "Income". Therefore, it can be said that, though "income" in receipt in the hand of its recipient, every receipt would not partake into the character of income. For the public servant, whatever return he gets of his service, will be the primary item of his income. Other income which can conceivably be income qua the public servant will be in the regular receipt from (a) his property, or (b) his investment. A receipt from windfall, or gains of graft crime or immoral secretions by persons prima facie would not be receipt for the "known source of income" of a public servant.**

**16. The legislature has advisedly used the expression "satisfactorily account". The emphasis must be on the word "satisfactorily" and the legislature has, thus, deliberately cast a burden on the accused not only to offer a plausible explanation as to how he came by his large wealth, but also to satisfy the Court that his explanation was worthy of acceptance.**

14. To substantiate a charge U/s 13(2) r/w Section 13(1)(e) of Act, the prosecution has to prove the following ingredients:

1. The accused is a public servant.

2. What were his known sources of income i.e

known to the prosecution.

3. The nature and extent of the pecuniary resources

or property which were found in his possession;

&

4. Such resources or property found in possession of the accused were disproportionate to his known sources of income.

15. It is admitted case that the accused was a public servant at the time of filing of chargesheet, as he was working as Assistant Engineer with Delhi Jal Board at the relevant time, which is a public authority and accused was a public servant. Therefore, sanction was required to prosecute him, as per Section 19 of the PC Act. The sanction order has been proved by PW31 Dr. Jayadev Sarangi, the same is Ex. PW31/A (D-95) and the forwarding letter enclosing the sanction given by the department to the CBI is Ex. PW33/B. After the perusal of the said sanction order, it is apparent that the said sanction had been accorded after due application of mind and after perusal of all the relevant material by the sanctioning authority. Even otherwise, the Ld. Defence Counsel during the course of the arguments has not disputed the said sanction order.

16. In any case, it has been held in the judgment **(2013) 8**

**SSC 119 State of Maharashtra Vs Mahesh G.Jain**, as under:-

16. Presently, we shall proceed to deal with the contents of the sanction order. The sanctioning authority has referred to the demand of the gratification for handing over TDS certificate in Form 16A of the Income-Tax Act, the acceptance of illegal gratification by the accused before the panch witnesses and how the accused was caught red handed. That apart, as the order would reveal, he has fully examined the material documents, namely, the FIR, CFSL report and other relevant documents placed in regard to the allegations and the statements of witnesses recorded under Section 161 of the Code and, thereafter, being satisfied he has passed the order of sanction. The learned trial judge, as it seems, apart from other reasons has found that the sanctioning authority has not referred to the elementary facts and there is no objective material to justify a subjective satisfaction. The reasonings, in our considered opinion, are absolutely hyper-technical and, in fact, can always be used by an accused as a magic trick to pave the escape route. The reasons ascribed by the learned trial judge appear as if he is sitting in appeal over the order of sanction. True it is, grant of sanction is a sacrosanct and sacred act and is intended to provide a safeguard to the public servant against vexatious litigation but simultaneously when there is an order of sanction by the competent authority indicating application of mind, the same should not be lightly dealt with. The flimsy technicalities cannot be allowed to become tools in the hands of an accused. In the obtaining factual matrix, we must say without any iota of hesitation that the approach of the learned trial judge as well as that of the learned single judge is wholly incorrect and does not deserve acceptance.

 The ratio of said judgment is squarely applicable to the facts of the present case.

17. I have gone through the sanction order. The said sanction order is explicit. The said sanction order has been passed after going through the entire documents i.e. income, expenditure, likely savings as well as the assets which were found in possession of the accused at the end of the check period and the alleged disproportionate assets alleged to have been acquired by accused which had also been detailed in the said sanction order **Ex.PW31/A**. Sanctioning Authority appears to have weighed the pros and cons while according the sanction, after going through the income, expenditure, assets of accused during the check period. The same gave the necessary sanction, therefore there is no infirmity or illegality in the sanctioning order **Ex.PW31/A** and the same has been accorded after due application of mind and after perusal of the entire material.

18. The Ld. Counsel for accused has relied upon judgment **M. Krishna Reddy Vs. State (supra)** in which it has been held that



income tax returns and wealth tax returns are unassailable documents as also the judgment ***Krishnanand Agnihotri Vs. State (supra)*** in support of his contentions, as also judgment ***State of Andhra Pradesh Vs J.Satyanarayana (supra)***, as also the judgment ***State of M.P Vs Mohanlal Soni (supra)***, the ratio of the aforesaid judgments are reproduced as under:-

(1) In ***Krishnanand Agnihotri Vs State of M.P AIR 1977 SC 796***, it was held as under:-

***17. In that case, it was contended that the amounts lying in fixed deposit in the name of one Shanti Devi was an asset belonging to the appellant and that Shanti Devi was a benamidar of the appellant. The Learned Judge speaking for the Bench has disposed of that contention holding that (para 26 of AIR) :***

***“It is well settled that the burden of showing that a particular transaction is benami and the appellant owner is not the real owner always rests on the person asserting it to be so and this burden has to be strictly discharged by adducing legal evidence of a definite character which would either directly prove the fact of benami or establish circumstances unerringly and reasonably raising an inference of that fact. The essence of benami is the intention of the parties and not unoften, such intention is shrouded in a thick veil which cannot be easily pierced through. But such difficulties do not relieve the person asserting the transaction to be benami of the serious onus that rests on him, nor justify the***

**acceptance of mere conjectures or surmises as a substitute for proof.”**

(2) In **AIR 1993 Supreme Court 313 titled M.Krishna Reddy Vs. State Deputy Superintendent of Police, Hyderabad**, it was held as under:-

**6. An analysis of Section 5(1) (e) of the Act, 1947 which corresponds to S.13(1)(e) of the new Act of 1988 shows that (it) is not the mere acquisition of property that constitutes an offence under the provisions of the Act but it is the failure to satisfactorily account for such possession that makes the possession objectionable as offending the law.**

**14. We are unable to appreciate that reasoning and hold that the prosecution has not satisfactorily discharged the expected burden of proof in disproving the claim of the appellant. Therefore, on the face of these unassailable documents i.e. the wealth-tax and income-tax returns, we hold that the appellant is entitled to have a deduction of Rs.56,240.00 from the disproportionate assets of Rupees 2,37,842/-**

**19. Needless to say that this Court on a series of decisions have laid down the guidelines in finding out the benami nature of a transaction. Though it is not necessary to cite all those decisions, it will suffice to refer to the rule laid down by Bhagwanti, J. as he then was in Krishnanand Agnihotri V. State of M.P., AIR 1977 SC 796: (1977) 1 SCC 816. In that case, it was contended that the amounts lying in fixed deposit in the name**

**of one Shanti Devi was an asset belonging to the appellant and that Shanti Devi was a benamidar of the appellant. The learned Judge speaking for the Bench has disposed of that contention holding thus : (para 26 of AIR) :**

**“ It is well settled that the burden of showing that a particular transaction is benami and the owner is not the real owner always rests on the person asserting it to be so and this burden has to be strictly discharged by adducing legal evidence of a definite character which would either directly prove the fact of benami or establish circumstances unerringly and reasonably raising an inference of that fact. The essence of benami is the intention of the parties and not unoften, such intention is shrouded in a thick veil which cannot be easily pierced through. But such difficulties do not relieve the person asserting the transaction to be benami of the serious onus that rests on him nor justify the acceptance of mere conjectures or surmises as a substitute for proof.”**

**(3) In Criminal Appeal No.5 of 1995, D/d. 26.4.2001 titled K.Goverdhan Versus State of A.P, Hon'ble Andhra Pradesh High Court, has held as under:-**

**14. Thus, in this case, the learned Special Judge seems to have relied on only two circumstances for holding that the assets in question are held by the ostensible owners benami for the accused officer. Firstly, the alleged absence of any known source of**

*income on the part of those ostensible owners and secondly issuing of cheques by the accused officer on various occasions in favour of D.W.5, who is his son-in-law. It is pertinent to mention here that even assuming that the ostensible owners in question do not have any known sources of income this in itself cannot be a conclusive circumstance for holding that the property held by them was benami on behalf of accused officer.*

*22. There is another aspect of the matter which deserves to be mentioned. Mere fact that the ostensible owner had no source of income in itself would not lead to any inference that the property in question was purchased with the income of a particular person. The absence of any source of income to the ostensible owner would merely indicate that the property might have been acquired with the income flowing from some one else. As to who that some one else is a matter of evidence and proof. That circumstance cannot lead to an inference that the property in question was acquired with the income from the accused. As pointed out by the learned Counsel for the appellant one of the sons of Narsingamma who has been examined as P.W.12 was himself a Government employee. No material has been placed before the Court to show that he might not have been interested in having the property acquired benami in the name of his mother. Thus, as stated above, it is a matter of evidence and not a matter of mere inference though the evidence may not be direct and may consist of circumstantial evidence. In this case, the Investigating officer P.W.43, has candidly*

**admitted that there is no material to show that the investments for the purchase of properties alleged to be benami were in any way traceable to the income of the accused. No circumstantial evidence of a definitive character has been placed on record to lead to an inference that it was the income of the accused which financed purchase of alleged benami properties.**

**(4) In (2000) 6 Supreme Court Cases 338 titled State of M.P Vs. Mohanlal Soni, it was held as under:-**

**A complaint under Section 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act, 1988 for the check period 25.09.1982 to 27.03.1993 was filed against the respondent public servant stating that he had acquired the property in excess of the known sources of his income. While submitting the charge-sheet several important documents, which were collected during the course of investigation, were withheld. Most of the documents related to the income tax returns or income tax assessment orders. All these documents pertained to the period prior to 26.03.1993. Some of them even related to the year 1988. At the time of framing charges the respondent made an application seeking production of these documents in court. According to the respondent the said documents supported him. If those documents were considered even prima facie there was no scope to frame charges against him. But the said application was rejected stating that for the purpose of framing charges only the documents**

**forwarded to the court under Section 173(5) CrPC were required to be considered. Hence the respondent filed criminal revision which was allowed by the High Court directing that the documents collected during investigation be produced and may be taken into consideration by the court below while framing the charge. Thereafter the trial court framed charges under Section 13(1)(e) read with Section 13(2) of the Act. Aggrieved by the order framing charges, the respondent filed a criminal revision. The High Court accepted the case of the respondent, set aside the order of the trial court framing charges and discharged the respondent. Dismissing the SLP by the State, the Supreme Court.**

In judgment titled as **State of Maharashtra Vs. Pollonji Darabshaw Daruwalla AIR 1988 SC 88: (1988 Cri LJ 183) held (at page 187, 188 of Cri LJ)** in relevant para, it was held as under :-

**“Assumption that depositor whose name appears first was not beneficial owner but was Benamidar is erroneous. Supreme Court in State of Maharashtra V. Pollonji Darabshaw Daruwalla, AIR 1988 SC 88: (1988 Cri LJ 183) held (at page 187, 188 of Cri LJ) :- “Equally erroneous is the view of the High Court on the proposition noticed at point (b). The assumption that in all joint deposits, the depositor first name alone is the beneficial owner and the depositor named second has no such beneficial interest is erroneous. The matter is principally guided by the terms of the agreement, inter se, between the joint depositors. If, however, the terms of the acceptance of the deposit by the depositee**

***stipulate that the name of the beneficial owner shall alone be entered first, then the presumptive beneficial interest in favour of the first depositor might be assumed. There is no such material before the Court in this case.”***

Further it has been held by the Hon'ble Orissa High Court in the judgment titled as ***Hemanta Kumar Mohanty 1973 (1) SLR 1121, followed in Narayan Ch. Saha Vs. State of Assam, Gauhati High Court decided on 16.02.1999***, in para 52 as under:-

***52. The Legislature has not chosen to indicate the known sources of income for which he could not satisfactorily account. The Legislature has not chosen to indicate what proportion of income would be considered disproportionate and the court may take a liberal view of excess of assets over the receipts of the known sources of income. It has been held that 'known sources of income' means 'known sources of income to the prosecution after a thorough investigation' and the onus of satisfactorily accounting for it is not as heavy an onus as is on the prosecution to prove its case beyond all possibility of doubt. This accounting for by the accused has to be liberally construed in favour of the accused and he will not be called upon to prove to the pie any assets to be found disproportionate to his known sources of incomes.***

Therefore, in view of above the public servant cannot be asked to account for assets found to be in his possession with arithmetic precision or pie to pie. At the same time an dishonest public servant, who has amassed disproportionate assets to his known sources of income, cannot be let off on mere technicalities or too liberal approach.

19. On the other hand, the Ld. PP for CBI has relied upon the judgment of ***Selvi J. Jayalalitha & Ors. (supra)***, as reproduced above in preceeding para(s).

20. In view of the aforesaid preposition of law laid down in the aforesaid judgments, it is apparent that the income tax returns and orders are unimpeachable documents, which have been accepted by the Income Tax Authorities and have been properly assessed in normal course, the said documents could not have been prepared in the anticipation that accused would have to face charges in the future in a disproportion assets case. Further, Shashi Rani Sharma wife of the accused had been filing her income tax returns since the year 1997 almost 13-14 years prior to the raid at the house of accused on 16.09.2011, when the present case of disproportionate assets was

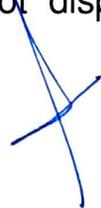
registered against the accused. Further, the elder son of the accused Abhishek had also been filing the income tax returns since financial year 2008-2009 and the younger son Paras had also been filing income tax returns since financial year 2008-09, as per the averments mentioned at page 21 of the charge sheet itself.

21. No doubt, it was open for the prosecution to lead evidence of positive character to show that the money for the same was provided by accused so as to show that Smt. Shashi Rani Sharma, Abhishek Sharma and Paras Sharma had no legitimate source of income, but since Shashi Rani Sharma had been continuously filing income tax returns and paying tax thereon and her income had also been assessed by the Income tax authorities / Revenue Authorities, it cannot be said now that she must have contemplated that later on at some point of time accused would be prosecuted for a case of disproportionate assets, so that she should be prepared in advance to meet such an eventuality. Therefore, it is apparent from the above discussion that the income tax returns filed by Smt. Shashi Rani during the course of time were legitimate and genuine. Therefore, the income mentioned therein with regard to the source(s) of income were also legitimate.

22.

Regarding the arguments of Ld. PP for CBI that in view of the judgment of **Selvi J. Jayalalitha & Ors. (supra)**, the mere assessment of the income by the assessment authorities under the Income Tax Act does not make the source of the same as lawful, as IT Authorities are not concerned with the legitimacy of the source of income and they only assess the income as per the return filed by the assessee and collect the tax thereon.

The said proposition of law laid down in the said judgment is not in dispute, however, Smt. Shashi Rani has herself come into the witness box and has deposed as DW3 and had stated on oath that she had been income tax payee since 1997-98 and the relevant income tax records were seized by the CBI vide memo **Ex. P-32 (colly.)** and the income from all the sources had been reflected in her income tax record. She was getting income from tuition, acupressure, magnate therapy as well as rental income. The prosecution claims her sources of income are sham except that of rental income. At the same time, filing of said income tax returns have not been disputed by the prosecution even otherwise and same are **Ex. P32 (colly.) (D-70, pages 100-125)** and similarly the income tax returns of the Abhishek are also not disputed which are **Ex. P32**



(colly.) (D70, page 90-99) and similarly the income tax returns of the Paras are also not disputed which are **Ex. P32 (colly.) (D70, page 126-129)**.

The only contention raised by the PP for CBI is that the source(s) of income shown in those income tax return is not from lawful sources. The said contention is without any substance, as Shashi Rani Sharma has come into the witness box and has deposed about the sources of her income which are also reflected in her income tax returns seized by the CBI at the time of raid at the house of accused and the prosecution could not collect any evidence to the contrary that the sources of the income generated by her were not from lawful sources or were from illegitimate means or that is to say that the sources of the said income was in fact the illgotten money provided by the accused. Similarly it has been mentioned in the charge sheet itself that the elder son of the accused Abhishek after doing his B.Tech from NSIT Dwarka started working in Microsoft in the year 2009 and he had been filing income tax returns since the financial year 2008-09, therefore, it cannot be said that the sources of income of Abhishek were unlawful, as he was adequately qualified and was working in a reputed IT company.

Regarding another son of accused namely Paras, it is stated in the chargesheet that he did B.Tech and passed in year 2012, yet he filed his ITR firstly during the financial year 2010-11, in which he had shown his income of Rs. 1.06 Lakhs from business and profession and for the financial year 2011-12 as Rs. 1.08 Lakhs, whereas he has failed to show any income from any legitimate source or provide evidence for the same. Since prosecution could not collect or prove evidence to the contrary, it cannot be held that sources of income of Paras were unlawful or were from illgotten money of accused.

23. As already discussed above, the prosecution had to establish that the sources of income reflected in those income tax returns were tainted or the money for the same was provided by the accused as held in the judgment ***Krishannand Agnihotri (supra)***, the prosecution had to prove by leading evidence of definite character that the money for acquiring Benami asset was provided by the accused. In any case, in the present case as per the settled law as held in the case of ***DSP Chennai Vs. Inbasagaran (supra)*** the assets, income, expenditure of the family members of the accused cannot be clubbed with that of the accused, if they have independent and distinct sources of income apart from the accused. Therefore, from the above

discussion it is held that the said income tax returns filed by Shashi Ranj Sharma wife of the accused and sons Abhishek and Paras were genuine and bonafide documents.

24. The check period in this case has been fixed from 02.11.87 to 16.09.2011 i.e. the date when the accused joined the service to the day of search. The analysis of the case in hand is being done in seriatim as per Statement(s) A, B, C & D delineated in the chargesheet.

**STATEMENT 'A'**  
**THE ASSETS BEFORE CHECK PERIOD**

25. **Item No. 1 : Savings from Income of accused R.B. Sharma from two private firms M/s. J. S. Construction and M/s. Organic India from July 1985 to Oct. 1987**

The same is admitted by the prosecution and defence during the course of arguments. Even otherwise the same is **Ex. PW9/E (D-69) (page 58-59)**, the admitted amount is 25,333/-, which will be considered as asset of the accused under this item prior to the check period.



26. **Item No. 2 : Agriculture income of the accused during 1975-76 to 1986-87 from his agricultural ancestral land about 2.974 ha(39 bigha) at his native village Kila, Tehsil Beswan, Aligarh, UP, acquired during 1967-73.**

Zero Asset has been shown under this item head, though on page 4 of the charge sheet, it is mentioned that the father of the accused Sh. Sukhdev Prasad had 120 bighas of land in village Kila Beswan, Tehsil Iglas, Aligarh and the sale deeds and revenue records confirmed possession of 45 bighas land by the accused transferred / purchased from the year 1967-73. It would be relevant to mention that in the closure report filed earlier by the CBI against this very accused, which had not been accepted by the Ld. Court, an amount of Rs. 3,15,000/- was shown to be the income of the accused under this item head prior to the check period, whereas suddenly in the charge sheet without any explanation this amount has been deleted. The accused in his reply submitted to the IO during the course of the investigation had claimed an income of Rs. 3,15,000/- under this item head **(D-70) (page 3 & 4)**, which was considered as genuine at the stage of filing of closure report.

Now suddenly the IO has deleted this item and amount

of Rs. 3,15,000/- for which no explanation has been furnished. In any case it is not the case of prosecution that it was a barren land, not yielding any crops, therefore, the accused must be having some sort of income or substantial income from the 45 bigas of land prior to check period and which had been quantified as Rs. 3,15,000/- and was also found to be correct by the IO at the stage of filing of closure report. **Therefore, this amount of Rs. 3,15,000/- has been rightly claimed as asset under this head by the accused prior to the check period and benefit of the same has to be accorded to the accused. The same has to be added in the assets of the accused prior to the check period.**

### **STATEMENT 'B'**

#### **ASSETS AT THE END OF THE CHECK PERIOD I.E. ON 16.09.2011**

27. **Item No. 1 : Purchase of flat bearing no. A-1406, CASA Royale at GH-10, Sector -1, Greater Noida, UP in the project of Earthcon Universal Infratech Pvt. Ltd in the name of Sh. R B. Sharma of Rs. 6,74,000/-.**

The relevant documents are D-4 and D-16 and the relevant exhibits are **Ex. P1** and **Ex. PW7/A** and **Ex. PW7/B**. As per

the examination in chief of PW7 Sh. Raja Bhattacharya, who was the witness from Earth Con Universal Infratech Pvt. Ltd., that flat no. 1406, CASA Royale at GH-10, Sector-1, Noida (D-16) was booked in the name of Ram Bharosay Sharma, total amount of Rs. 13,68,649/- was received from him against the said flat. As per his further examination, an amount of Rs. 1.05 lakhs was paid by the accused by way of cheque **Ex. PW17/B**, remaining was paid in cash, as per his cross-examination, he deposed that from 25.04.2010 to 13.11.2010 a total payment of Rs. 6,74,000/- was received from the said Ram Bharosay against the said flat i.e. during the check period.

He had also admitted that the said flat was booked in the joint names of Ram Bharosay Sharma and Abhishek Sharma, son of the accused. However, he stated that he cannot tell who had made the cash payments.

Though, it has not been proved by the defence as to who made payments in cash as above, however, it has been claimed by the defence that the said payments were made by the son of the accused Abhishek and not accused, therefore, the said amount(s) paid by Abhishek in cash cannot be considered as asset of the accused.

No doubt that Abhishek had been paying income tax

vide income tax return **Ex.P32 (colly.)**, (**D-70, pages 90-99**), since the financial year 2008-09 also **Ex. PW26/A**. However, the above plea does not appear to be plausible firstly the said witness Abhishek has not stepped into the witness box to prove this fact as to what was his source of income regarding the huge payment of cash towards the part payment of said flat as then the prosecution would have also got an chance to cross-examine the said witness to check his sources of income.

PW7 was another witness, who could say that the said payments were made in cash by son of the accused namely Abhishek, however, PW7 has stated in his evidence, he cannot say whether the said payments in cash were made by Abhishek. Even otherwise, it is hard to conceive that within a short span of one year Abhishek who started working with Microsoft only in the year 2009, Abhishek could generate or aggrandize so much of amount in cash. The cash payments have been made in the year 2010, therefore, it does not stand to logic that he would have been in position to make such huge contribution in cash towards the booking / payment of said flat. **Therefore, the said amount of Rs. 6,74,000/- has been rightly added into the asset of the accused under this item head.**

28. **Item No. 2 : Cash of 23,390/- observed during the search on 16.09.2011.**

The relevant documents are **(D-3)** and **(D-10) Ex. PW2/A** and **Ex. PW2/B**. PW2 Vinod Kumar, who was part of the search team has proved the search list dated 16.09.2011 prepared at the time of raid at the house of accused, which is **Ex. PW2/A (D-3)**. He also deposed that during search, articles were seized by the CBI and the memo was prepared and the cost of articles was also mentioned. The said observation memo is **Ex. PW2/B (D-10)**.

The accused during the course of arguments stated that the said cash of Rs. 23,390/- was the stridhan of his wife as the same was seized from her purse. DW3 the wife of the accused has appeared in the witness box and she has categorically stated that the cash belonged to her and also the routine jewellery worn by her, the cash belonged to her as she was getting income from tuition, acupuncture, magnet therapy as well as having rental income and she has been income tax payee from the year 1997-98 vide returns **Ex. P-32 (colly.) (D-70, page 100-125)**.

Nothing material has come out in her cross-examination

which could impinge upon her credibility or dilute it. Since she was income tax payee for a long time and ladies do receive money from relatives, parents, in-laws on the occasion of various ceremonies and festivals, in any case the said amount cannot be said to astronomical. Therefore, the same can be said to be an asset belonging to the wife of the accused. Therefore, the same cannot be added into the asset of the accused under this item head. **Therefore, this amount of Rs. 23,390/- has to be deleted from the assets head of the accused.**

29. **Item No. 3 : Household items found during search on 16.09.2011 of of 1,44,500/-.**

As discussed above during the item no. 2 above, PW3 has stepped into the witness box and has claimed that the jeweller was routine jewellery worn by her and it was her stridhan since it was gifted to her at the time of her marriage. She has also claimed in her deposition that she used to contribute towards household expenses. Even otherwise, during the course of arguments, Ld. Defence Counsel has claimed that it has been mentioned in the observation memo **Ex. PW2/B** itself that many articles mentioned therein were the stridhan articles of Smt. Shashi Rani Sharma or stated to have been gifted to the accused at the time of his marriage and some of the articles were

purchased by her out of her own earning and contributed towards the household, as her marital responsibility and similarly both the sons of the accused had also contributed towards acquisition of some of the household articles.

PW2 in his cross-examination had stated that accused told him that some of the articles were received as gift by him in his marriage and the cost of these articles were also mentioned in the observation memo at sl. no. 2, 4, 10, 25, 35, 36, 38 and 46. He also admitted that no technical person was the part of the raiding team for the purpose of valuation of the articles found at the house of the accused.

From the testimonies of PW2 and DW3, it is apparent that even at the time of the raid, accused and his wife claimed that some of the household articles were stridhan of the wife of the accused as same had been received by them at the time of their marriage, which is quite probable, as certain household articles received at the time of marriage last for a long time. Further in case of joint possession of house by different family members of the accused, some of whom have independent income, it is quite probable that some of those household articles may have been purchased or contributed by those family members living under the same roof. In this case Smt.

Shashi Rani Sharma wife of the accused while appearing as DW3 has claimed that she has been filing income tax return since 1997-98, which were also seized by CBI vide **Ex. P32 (D70, pages 100-125)** at the time of the raid.

Therefore, it can be said that substantial portion of those articles shown in the observation memo belonged to Smt. Shashi Rani Sharma as stridhan or dowry received or articles purchased by her during the check period, but at the same time, it cannot be said that the accused may not have made any contribution towards the same. In any case, in such kind of cases, no exact figure can be arrived at, but only an approximation based on common sense and reasonable basis can be reached, therefore, out of amount of Rs. 1,44,500/- an amount of Rs. 1 Lakh can be attributed towards stridhan and dowry articles belonging to Shashi Rani Sharma, whereas an amount of Rs. 44,500/- could be said to be the contribution of the accused. **Therefore, the said amount of Rs. 1 Lakh has to be deducted from the asset head of the accused and only an amount of Rs. 44,500/- can be added as an asset under this item head.**

30. **Item No. 4 : Balance as on 16.09.2011 in Bank A/c**

**No. 16711000005524 at HDFC Bank, Mehrauli in the name of Sh. RB Sharma/Smt. Shashi Rani Sharma of Rs. 14,86,900/-.**

The relevant witnesses with regard to this item are PW9, PW11, PW12, PW15, PW18 and DW2.

PW9 Sh. Ravindran, who was the official witness from Delhi Jal Board, where the accused was also working, was examined with regard to his salary details / statements, which are **Ex. PW9/A** to **Ex. PW9/E**. In his relevant cross-examination, he has deposed as under :

**“It is correct that in statement no. 2 on page no. 36/9 it is informed that Rs. 17 lacs was received through transfer from buyer / middleman and the payment was received by Ram Bharosey Sharma through cheque. The statement no. 2 (part of D-36) is now Ex. PW9/E-1.”**

The perusal of the said statement of immovable property possessed by the accused or in the name of his dependants and disposed of between 01.11.87 to 16.09.2011 shows that the accused had given an intimation to his department regarding the sale of plot C-8, Radhika Vihar, Mathura, UP and the total sale consideration was mentioned as Rs. 17 Lakhs, receipt of which is mentioned therein and



the name of the seller has been disclosed as Lajjawati. The mode of acquisition has been mentioned as **'fully paid by father in cash'**. The statement is dated 15.05.2013. Since, the relevant date of intimation is after the date of check period and the date of raid. Therefore, not much probative value or force can be assigned to the same, as it may be an after thought.

Further PW12 Chetan Kumar is a witness from Corporation Bank, Mathura Branch, U.P. He has proved the cheque issued by Smt. Lajjawati bearing no. 061870 dated 15.04.2011 in favour of accused R. B. Sharma for Rs. 8 Lakhs which is **Ex. PW12/B (D-44)**.

Further, PW14 Dheeraj Pal Singh, who is a witness from U.P. Housing and Development Board, Mathura, has proved the allotment letter with regard to allotment of plot in favour of the accused vide **Ex. PW14/A** to **Ex. PW14/C**. In his cross-examination, he has deposed as under :

**"It is correct that the payment with regard to the plot no. C-8, Krishna Vihar Yojna, Mathura was Rs. 6,65,934/-. It is correct that this plot was purchased by R B Sharma in auction on 28.06.2001 as per Neelami**

**Register. I cannot say what was the value of that plot in 2011. I cannot say the value of plot was between Rs. 25 lakh to Rs. 30 lakh in year 2011. I cannot tell the circle / market rate of the abovesaid plot in 2011.”**

PW15 is Sh. Rajendra Kumar, husband of Lajjawati (seller), who has deposed in his examination in chief as under :

**“In the year 2011 I was posted as Jr. Engineer, UP Jal Nigam, Agra and my wife was housewife at that time. My wife Smt. Lajjawati had purchased a plot situated at Krishan Vihar Colony, Mathura from Sh. Ram Bharosey for a consideration amount of Rs. 8 lacs in the year 2011. My wife is having an account in Co-operation bank, Krishana Nagar, Mathura, UP and the sale consideration amount was paid to the accused through cheque.**

**Today I have been shown cheque bearing no. 061870 dated 15.04.11 already Ex.PW12/B part of (D-44/2) and the cheque is bearing signature of my wife at point A.”**

The said witness in his cross-examination has deposed as under :

**“I have not known Devi Charan Sharma during**

the period when the Sale deed was executed and prior to that but after execution of the sale deed and registration of the case during investigation he had contacted me and told me that he had also received notice from CBI. I do not know Sh. Subhash Chand Sharma. I have not known R.B. Sharma prior to execution of sale deed of the above mentioned property. The above said plot was purchased by my wife through a middle man Sh. Pankaj Mishra. I cannot say whether Devi Charan was the partner or associate of Pankaj Mishra. It is correct that as per the sale deed/document the above said property was purchased by accused Ram Bharosey Sharma from UP Awas Vikas Yojna for a consideration of Rs.5,49,780/- on 01.04.05. I was not present at the time of execution of the above said sale deed.

It is wrong to suggest that the above said plot was purchased by my wife for a consideration amount of Rs. 27 lacs and not for Rs. 8 lacs. I do not know whether Devi Charan had paid Rs. 2 lacs by cheque bearing no.696813 dated 16.03.2011, Rs. 2 lacs by cheque no. 696814 dated 14.03.2011, Rs. 2.5 lacs cheque no. 725132 dated 15.04.2011 & Rs. 1.5 lacs by cheque no. 725133 dated 15.04.11 to R.B. Sharma on behalf of my wife Smt. Lajjawati.”

Next relevant witness is PW18 Devi Charan Sharma, who has deposed in his examination-in-chief as under :

**“In the year 2010-11 I was running a coaching institute at Mathura. I knew Mr. Subhash Chand Sharma as he was my neighbor. I intended to buy a plot from Subhash Chand which was situated near BSA Engineering College for a consideration amount of Rs. 9,35,000/-. I have paid the consideration amount RS. 8 lacs through various cheques of HDFC bank of my saving account bearing no. 2681000034411 and the bank was situated near BSA Engineering college.**

**Later on I came to know that the said plot belongs to relative of Mr. Subhash Chand Sharma however the deal was not materialized and the consideration amount paid by me to Subhash Chand was returned through cash in two part, one of Rs. 5 lacs and another Rs. 3 lacs.**

**Today I have been shown photocopy of cheque bearing no 696814 dated 14.03.2011 and cheque bearing no. 696813 dated 16.03.11, which were issued by me under my signature, bearing my signature at point A on both the cheques. Both the cheques are now marked PW18/X and PW18/Y. Both aforesaid cheques was signed by me and only amount was written by me but the name and account number of the payee is not in my handwriting.**

**Later on I came to know that the land is in**

dispute and for this reason the deal could not be materialized.

At this stage Id. Sr. PP want to cross-examine the witness as he is resiled from this statement u/s 161 Cr.PC given to CBI.

Heard. Allowed.

XXXXX by Ld. Sr. PP for CBI.

During investigation CBI had recorded my statement. It is correct that I have stated to IO/CBI that I came to know later on that the said property was already sold to someone else and registry was also executed on 15.04.2011 in the name of Smt. Lajjawati W/o Rajender Kumar.”

In his relevant cross-examination, which has been reproduced as under, he has denied the entire case of the defence :

“It is wrong to suggest that there was no deal between Subhash Chand and me and I am deposing falsely in this regard. It is further wrong to suggest that for this reason there is no receipt of payment issued by Subhash Chand. It is wrong to suggest that the said money was not returned to me by Subhash Chand and the said money was kept in the account of R.B. Sharma. I do not know Smt. Lajjawati. I know Rajender Kumar after the registration of the documents of the said property. It is wrong to suggest that I was doing part time property dealing business at that time. I cannot say that Smt.

**Lajjawati is wife of Rajender Kumar. It is wrong to suggest that I was doing a part time job of property dealing business and I have arranged a deal between Lajjawati and R.B. Sharma, owner of plot no. C-8, Krishna Vihar, Mathura,UP.**

**It is wrong to suggest that amount of Rs. 8 was given to me by Smt. Lajjawati to deposit in my account. It is further wrong to suggest that deal was done for a consideration amount of Rs. 27 lacs. It is further wrong to suggest that the said Rs. 8 lacs was paid by me on behalf of Lajjawati towards the part consideration amount. I do not know when the sale deed was executed between Lajjawati and R.B. Sharma. It is further wrong to suggest that at the time of execution of sale deed I was present on 15.04.11. I do not know Subhash Chand Sharma was present at the time of execution of sale deed on 15.04.11. It is wrong to suggest that amount of Rs. 8 lacs was not returned by Subhash Chand sharma through cash to me at any time.”**

The next relevant witness is PW11 Deepak Gagneja, who is the witness from HDFC Bank, Mehrauli, who has proved the bank statement of accused pertaining to the joint account no. 5524 in the name of accused R.B. Sharma and Smt. Shashi Rani Sharma for the period 28.12.2010 to 16.01.2013 **Ex. PW11/C**, who in his examination-in-chief has deposed as under :

**“Today I have been shown copy of Account Opening Form in the name of Mr R B Sharma and Shashi Rani Sharma alongwith KYC documents, photocopy of cheques (all parts of D-46). The said form was attested by me and bears my signature at points A. The Account Opening Form along with other documents Ex PW11/B (colly).**

**Today I have been shown statement of account pertaining to A/c No. 16711000005524 in the name of Sh R B Sharma and Ms Shashi Rani Sharma for the period 28.12.2010 to 16.01.2013 (part of D-46). Same bears my signature at point A and seal of the bank at point B. The statement is now Ex PW11/C. In the said account, total balance as on 16.09.2011 was Rs 14,86,900/- and interest of Rs 1442/- paid by bank. I never posted in Naraina Branch and therefore I cannot identify the signature of official of Naraina branch.”**

In his relevant cross-examination, he has deposed as under :

**“It is correct that I had told in my statement u/s 161 CrPC to CBI that there are credit entries of Rs 2lac, Rs 2lac, Rs 2,50,000/- and Rs 1,50,000/- as on dated 16.03.2011, 16.03.2011, 28.03.2011 and 15.04.2011 respectively, transferred from A/c No. 02681000035411 in the name of Devi Charan Sharma maintained at Mathura branch, Gaushala Road, Mathura. It is correct that there is**

two credit entries also of Rs 50,000/- each on 16.03.2011 and 15.04.2011 in the account of R B Sharma transferred from A/c No. 02681000021960 maintained at Mathura Branch in the name of Subhash Chand Sharma. It is correct that aforesaid credit entries are reflected in aforesaid statement of account i.e. Ex PW11/C.”

The next relevant witness is DW2 Subhash Chand Sharma, who in his examination-in-chief has deposed as under :

**“The abovesaid plot was subsequently sold in the year 2011 to Lajjawati through Devi Charan and I was also involved in the transaction. The plot was sold for Rs.27,20,000/-. The registered documents/sale deed were executed between Ram Bharosay Sharma and Lajjawati.”**

In his cross-examination, the Ld. PP for the CBI put the case of the prosecution that it was wrong that he was deposing falsely about the consideration amount to be Rs. 27,20,000/-. He denied the suggestion that the property was sold for the amount of Rs. 8 Lakhs. He also admitted that he did not sign the said sale deed as a witness.

31. It is the defence of the accused with regard to the plot in question that it was sold to Lajjawati for consideration of Rs. 27,20,000/- but the stamp papers were purchased for Rs. 8 lakhs only

and Rs. 17 Lakhs were paid through bank accounts and Rs. 10,20,000/- were paid in cash to R. B. Sharma and the said plot in question was sold through Sh. Devi Charan Sharma, who was the property dealer and consequently an amount of Rs. 8 Lakhs was transferred by Devi Charan Sharma by cheque into the account of accused and Rs. 8 Lakhs was also paid by Smt. Lajja Devi into the account of R.B. Sharma by way of separate cheque and DW2 Subhash Chand Sharma had also transferred Rs. 1 Lakh to the account of accused, which amount he had received from Devi Charan Sharma in cash.

32. On the contrary, the case of the prosecution is that the plot in question was sold to Lajjawati for Rs. 8 lakh, which was the consideration received by the accused from Lajjawati through cheque and for which amount sale deed was also executed. It is also argued that the first deal with regard to the said property with Devi Charan Sharma did not materialize, however, and in the meanwhile he had transferred Rs. 8 lakhs, as advance consideration into the joint account of R.B.Sharma and Shashi Rani Sharma. Later on the deal fell through and the said amount of Rs. 8 Lakhs was returned to him in cash by his neighbour DW2 Subhash Chand Sharma, relative of accused and both

the transactions are independent transactions.

33. After going through the rival contentions, on this aspect / item, from the testimonies of PW9, PW11, PW14, PW18 and DW2 as discussed above, it appears that there were two independent deals with regard to the plot in Mathura, one with Devi Charan Sharma PW18, which was the first deal of whom DW2 was the neighbour, which deal somehow fizzled out, though by that time, he had transferred Rs. 8 lakhs into the joint account of accused R. B. Sharma and Shashi Rani Sharma.

Later on another deal took place between accused and Lajja Wati which went through again for the consideration of Rs. 8 Lakhs, as PW15 the husband of Lajjawati, Sh. Rajinder Kumar has denied the receipt of any payment in cash in his cross-examination.

PW15 should know the facts regarding the transaction, as he was the husband of the purchaser Smt. Lajjawati, as to what was the actual consideration amount for the sale of the said plot. In any case, the consideration of Rs. 8 Lakhs matches in both the transactions discussed above. Therefore, it appears to be the correct consideration amount, as per the market value prevailing at that point of time.

Since no formal documents of sale / purchase have

been proved by the accused or by Devi Charan Sharma PW18 in the shape of agreement to sell etc. nor any such document was seized by the IO during his investigation, however, at the same time, the plea of PW18 appears to be probable, as PW18 Devi Charan has categorically denied that he knew PW15 Rajinder Kumar prior to transaction in question.

Further, the explanation of PW18 that the said amount of Rs. 8 Lakhs was returned in cash by DW2 to him who was his neighbour appears to be probable on preponderance of probabilities as otherwise, PW18 would not have remained silent if the said money had not been returned to him by the accused or on his behalf and there would have been some sort of hard core litigation between them over the return of the money, which is not the case in hand, therefore, the said money must have been returned back to PW18 by DW2.

Since the sale deed with Smt. Lajjawati purchaser **Ex. PW15/A** was for consideration of Rs. 8 Lakhs and stamp duty was also paid on the same only, therefore, in view of the written registered document containing the terms of the contract i.e. sale deed, same will shut out any oral evidence to the contrary by virtue of Section 91 & 92 of the Evidence Act.



Therefore, the claim of the accused that the said plot was sold for Rs. 27,20,000/- to the wife of PW15 Rajendra Kumar namely Lajjawati cannot be countenanced.

However, since an amount of Rs. 8 Lakhs is standing in the above bank account of R. B. Sharma and Shashi Rani, obtained from failed transaction with PW18 Devi Charan Sharma, which must have been returned by DW2 to PW18, as discussed above, the same is payable by accused to DW2 as debt or same can be considered to be loan from DW2 to the accused R. B. Sharma. Further, the amount of Rs. 1 Lakh transferred also by DW2 into the said account of accused R. B. Sharma and Shashi Rani Sharma would also be the loan or debt towards DW2 qua accused.

Therefore, the accused has proved the source of the said amount which was transferred into his said account, as per the statement of account **Ex. PW11/C**, as lawful, further though the same was also intimated to the department later on after the event in question as discussed above **Ex. PW9/D1** on 15.05.2013 (which cannot be taken into account, same being an after thought). However, at the same time, the source of the said funds has shown to be lawful though not intimated to the department within the stipulated time.

Therefore, the non intimation in time would not be fatal, as the source has been shown to be lawful in view of the judgment of **Virender Singh Vs. Central Bureau of Investigation 2011 (1) JCC 623** decided on 22.11.2010 in WP (Criminal) Nos. 765/2010 & 871/2010, where in para 25 it was held as under :

***“Thus, the obligation of the accused public servant to satisfactorily account for the assets remains the same under both PC Act, 1947 (after 1964 amendment) and under the PC Act, 1988. Enactment of Section 13(1)(e) of the PC Act, 1988, which is replacement and pari materia to Section 5(1)(e) of the PC Act, 1947, in this regard makes no distinction. The requirement of law remains the same. The public servant/accused has to account for to the satisfaction of the Court that the assets available with him or his resources for purchase of the assets were not disproportionate to the known sources of his income. The onus in this regard does not undergo any change or modification with the introduction of the Explanation to Section 13(1)(e) of the PC Act, 1988. It is a different matter that a public servant may find it difficult to discharge the said onus unless he has a lawful source of income and the said income has been intimated to the authorities concerned in accordance with law. But the explanation does not enact or create an absolute prohibition/bar to curtail***

***right of the accused public servant to satisfactorily account for the assets. Similarly, the explanation does not alter or change the law on what or which assets the accused/public servant are required to be account for. The assets can be those which have been disclosed and also other assets which have not been disclosed by the public servant but there is evidence that the asset are possessed, belongs to or held by the accused public servant.”***

The import of this judgment is that even if the public servant / accused may not have intimated the receipt of income(s) from lawful sources to the department, even then he is not estopped from proving that the source of the receipt of income was lawful in his quest to satisfactorily account the pecuniary resources, found or possessed by him. If he has already intimated the department of particular receipt of income from a lawful source, then it may be easier for him to satisfactorily account that part of income, or one can say that the probative force of his explanation to satisfactorily account for said income may become more potent for that particular item of income, thereby also enhancing the probative force as a whole of his entire income from lawful sources in his possession in his ultimate quest to satisfactorily account for all of these in a trial of a DA case.

34. Therefore, this amount of Rs. 9 Lakhs, out of total amount of Rs. 14,86,900/- cannot be considered to be the asset of the accused, rather the same can be said to be the income of the accused and will go into the income head of the accused. Therefore, this amount of Rs. 9 Lakhs has to be deleted from the amount of Rs. 14,86,900/- under this item head and consequently only an amount of Rs. 5,86,900/- can be considered as asset of the accused under this item head.

35. Item No. 5 : Balance as on 16.09.2011 in Bank A/c no. 04401000019168 at HDFC Bank, Naraina Branch in the name of Sh. R. B. Sharma / Smt. Shashi Rani Sharma of Rs. 77,703/-.

The relevant document has been proved as **Ex. PW23/B (D-45, page 10)**, which is a joint account in the name R. B. Sharma and Paras Sharma in the HDFC Bank, Naraina bearing no. 19168, as per PW3 in his cross-examination, in joint account cheque of either holder of said account can be credited. It is correct that an amount of Rs. 1 lakh was credited in the said account through NEFT from the account of Abhishek Sharma.



Therefore, it is apparent that in the said account, money was poured not only by the accused, but by his another son Abhishek or his brother Paras. The said Paras was also filing income tax returns, as per charge sheet since the financial year 2010-11. However, at the same time accused R.B. Sharma was the leading earner of his family. He must have been earning more than his sons, which is apparent from the record, though, in view of the judgment of the Hon'ble Supreme Court in ***State of Maharashtra Vs. Pollonji Darabshaw Daruwalla (supra)*** second holder of the joint bank account also has a beneficial interest in the same unless proved to the contrary. However, at the same time, no exact amount can be apportioned in such cases. Some reasonable guess work has to be done. Therefore, one has to take common sense and reasonable view of the matter. Considering the accused to be the principal earner as discussed above, it can be said that 60% of the said amount belongs to the accused and 40% to his son Paras. **Therefore, an amount of Rs. 46,621/- can only be added as asset of the accused under this item head and the remaining amount of Rs. 31,081/- has to be deleted under this head.**

36. **Item No. 6 : Balance as on 16.09.2011 in Bank A/c no. 04401930001886 at HDFC Bank, Naraina Branch in the name of Sh. Abhishek Kumar Sharma/ Sh. R. B. Sharma of Rs. 25,933/-.**

As held in the item no. 5, the son of the accused Abhishek Sharma had been filing income tax returns from the year 2008-09 as he started working in Microsoft in the year 2009 as per the averments mentioned in the charge sheet. Taking the same logic as discussed above, considering the accused to be the principal earner in view of the judgment of the Hon'ble Supreme Court in ***State of Maharashtra Vs. Pollonji Darabshaw Daruwalla (supra)*** the said amount can be apportioned in the ratio of 60% - 40% i.e. 60% can be attributed to the assets of the accused and 40% to the son of the accused namely Abhishek. **Therefore, an amount of Rs. 15,559/- can only be added as asset of the accused under this item head and the remaining amount of Rs. 10,306/- has to be deleted under this head.**

37. **Item No. 7 : Balance as on 16.09.2011 in Bank A/c no. 16711000007295 at HDFC Bank, Mehrauli in the name of Paras Kumar Sharma of Rs. 27,918/-.**



The relevant documents is (D-48, page 2) Ex. P25. The prosecution has not lead any evidence that the money which was deposited in the sole account of Paras Sharma was provided by accused R.B. Sharma. In view of the judgment of ***Krishnanand Agnihotri (supra)*** the prosecution had to prove that the money for the same was provided by the accused which it has not, **hence said amount of Rs. 27,918/- has to be deleted from the asset head of the accused R. B. Sharma.**

38. **Item No. 8 : Balance as on 16.09.2011 in Bank A/c no. 10628657721 at SBI Mehrauli Branch, in the name of Sh. R. B. Sharma/Smt. Shashi Rani Sharma of Rs. 268/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide Ex. PW22/J (D-38, page 25). **Therefore, this amount of Rs. 268/- under this head has to be taken as asset of the accused.**

39. **Item No. 9 : Balance as on 16.09.2011 in Bank PPF A/c no. 10628745222 at SBI, Mehruali Branch in the name of Sh. R. B. Sharma of Rs. 1,84,153/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. PW22/G (D-38, page 12)**. Therefore, this amount of **Rs.1,84,153/-** under this head has to be taken as asset of the accused.

40. **Item No. 10 : Balance (Interest Credit of STDR on 23.08.2011) as on 16.09.2011 in bank STDR A/c no. 30586875982 at SBI, Mehrauli Branch in the name of Sh. R. B. Sharma 16,448/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. PW22/H (D-38, page 5)**. Therefore, this amount of **Rs.16,448/-** under this head has to be taken as asset of the accused.

41. **Item No. 11 : STDR as on 16.09.2011 made from A/c no. 30586875982 at SBI, Mehrauli Branch in the name of Sh. R. B. Sharma. Original STDR of Rs.66,448 was seized during search of Rs. 50,000/-.**

The same has been admitted during the course of the

arguments by the defence. Even otherwise, the same has been proved vide **Ex. P2 (D-5, page 12)** and **Ex. PW22/H (D-38, page 5)**. Therefore, this amount of **Rs.50,000/-** under this head has to be taken as asset of the accused.

42. **Item No. 12 : Balance as on 16.09.2011 in Bank A/c no. 2018101002986 (old A/c no. 2986) at Canara Bank, Mehrauli Branch in the name of Sh. R. B.Sharma of Rs. 5,967/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. PW25/B (D-40, page 4)**. Therefore, this amount of **Rs. 5,967/-** under this head has to be taken as asset of the accused.

43. **Item No. 13 : Balance as on 16.09.2011 in Bank A/c no. CLSB/030118 at Corporation Bank, Vasant Kunj in the name of Sh. Ram Bharosay Sharma/GPF B-6175 of Rs. 28,34,676/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. PW17/E (D-50, page 55)**. Therefore, this amount of

**Rs. 28,34,676/- under this head has to be taken as asset of the accused.**

44. **Item No. 14 : Balance as on 16.09.2011 in Bank A/c no. KCC/01/090434 at Corporation Bank, Vasant Kunj Branch in the name of Sh. Ram Bharosay Sharma of Rs. 3,00,000/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. P2 (D-5, page 11)**. Therefore, this amount of **Rs. 3,00,000/-** under this head has to be taken as asset of the accused.

45. **Item No. 15 : Balance as on 16.09.2011 in Bank A/c no. SB/01/830058 at Corporation Bank, Vasant Kunj Branch in the name of Sh. Ram Bharosay Sharma of Rs. 61,926/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. PW17/D (D-50)**. Therefore, this amount of **Rs. 61,926/-** under this head has to be taken as asset of the accused.



46. **Item No. 16 : Balance as on 16.09.2011 in Bank A/c no. 0622000100151040 at PNB, Sarvodya Enclave Branch in the name of Sh. Ram Bharosay Sharma of Rs. 72,962/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. PW24/D (D-43, page 6)**. Therefore, this amount of **Rs. 72,962/-** under this head has to be taken as asset of the accused.

47. **Item No. 17 : Balance as on 16.09.2011 in Bank in FD A/c no. 0622003107996030 at PNB, Sarvodya Enclave Branch in the name of Sh. Ram Bharosay Sharma. Original FD for Rs.1,23,428 dated 29.01.2009 was seized during search. Originally it was made for Rs. 50,000/- as per statement of Sh. R. B. Sharma of Rs. 1,61,209/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. P2 (D-5 page 10)** and **Ex. P24/B (D-43, page 8)**. Therefore, this amount of **Rs. 1,61,209/-** under this head has to be taken as asset of the accused.

**STATEMENT 'C'**

**INCOME OF ACCUSED DURING THE CHECK PERIOD**

48. **Item No. 1** : Net salary of Ram Bharosay Sharma from 02.11.1987 to Sep 1996. Gross salary was Rs.3,67,805/- (charge sheet amount 3,33,835/-);

**Item No. 2** : Net salary of Ram Bharosay Sharma from Oct 1996 to Dec 2005. Gross salary was Rs.13,60,361/- and Income Tax deduction was Rs.174 during this period (charge sheet amount 11,26,168/-);

**Item No. 3** : Net salary of Ram Bharosay Sharma from Dec 2005 to Dec 2008 of Rs. 8,63,756/-; &

**Item No. 4** : Net salary of Ram Bharosay Sharma from Jan 2009 to 16.09.2011 from DSIIDC. Gross salary was Rs.14,24,804/-. Income tax deduction is Rs.82,244/- ( of Rs. 12,43,040/-).

Item No. 1 has been proved vide documents (D-13) and (D-14) Ex. PW6/A and B, item no. 2 has been proved vide document (D-13) Ex. PW5/A, item no. 3 has been proved vide document (D-13, page 15), D-36 Ex. PW5/A (Colly.) and Ex. PW9/B, item no. 4 has

been proved vide document (D-15) and Ex. PW8/A (colly.). These documents / exhibits have been admitted by the prosecution as well as defence during the course of the arguments. The total figure with regard to the sum total of item no. 1 to 4 has also been admitted by both prosecution as well as defence to be Rs. 34,19,864/-, which is the net salary of the accused during the check period.

Further the accused has claimed the receipt of ex-gratia amounts of Rs. 10,000/- and Rs. 2,500/- with regard to the item no. 2 and 3, however the same are not reflected in the relevant document and has not been proved by the accused to be payable to him, as PW9 in his cross-examination has stated that ***“it is correct that ex-gratia is also mentioned in Ex. PW9/B, it is correct that the amount of ex-gratia is not mentioned in salary particulars from period 2005-2006 as the same was not given to the accused for that period.”*** Similarly, PW5 had stated in his cross-examination ***“it is correct that on page 13/6 and 13/7 i.e. statement for the period of April 1997 to March 1998 and April 1998 to March 1999, ex- gratia is not mentioned.”*** He further stated that ***“on page 13/12 and 13/14 of salary statement for the period April 2003 to December 2005 ex-gratia amount is not mentioned.”***

Since, the said amounts, as claimed by the accused are not mentioned in the relevant salary documents, the benefit of the same cannot be extended to the accused, as ex-gratia means "by favour" when something is done or paid ex-gratia it has been done voluntarily out of grace in law, and ex-gratia payment is a payment made without the giver recognizing any liability or legal obligation, therefore, benefit of this amount of Rs. 12,500/- cannot be extended to the accused.

Further the accused has claimed an amount of Rs. 25,111/- with regard to the item no. 4, as salary arrears from 01.09.2011 to 16.09.2011 (date of the raid). The said contention is valid, as the same is the income earned by the accused having worked for the said period, though he may have received the said amount later on. In any case, expenditure of the accused has also been calculated till 16.09.2011. **Therefore, in order to equalize both income as well as expenditure head, the benefit of amount of Rs. 25,111/- has to be extended to the accused, same will be added as his income under these heads.**

49. **Item No. 5 : Sale Proceeds of commercial plot no. C-**

**8, UP Avas Vikas, Mathura in Krishna Vihar Yojna in the name of Sh. R.B. Sharma of Rs. 8 Lakhs.**

As per this item, the accused had claimed the sale consideration amount of Rs. 27,20,000/- and vide detailed discussion on item no. 4 under the statement B or under the Asset Head, the consideration amount has been held as Rs. 8 Lakhs, therefore, the same does not need any repetition for the sake of brevity, therefore, the income of the accused with regard to this item head is held to be Rs. 8 lakhs and has been rightly shown to be so by the IO after investigations.

50. **Item No. 5A : The accused has claimed receipt of Rs. 7 Lakhs from his mother vide document Ex. DW1/A (D-70/139).**

In this regard testimony of DW1 is relevant :

**“I am younger brother of accused Ram Bharosay Sharma. My father expired in 2006 and my mother expired in 2013. We are five siblings i.e. three brothers and two sisters.**

**I have seen handwritten paper shown to me in the prosecution file. The original**

of said document I have brought today in the court. Vide this document, mother (now late) Badami Devi had given Rs.7 lakhs in cash to Ram Bharosay Sharma. This document bears my signatures at point A. The document is Ex.DW-1/A. The thumb impression of my mother is at point B. This document also bears signatures of elder brother Ram Kishan at point C. The document was drawn in my presence and with full consciousness by my mother, wherein she had given her reasons for giving Rs.7 lakhs to Ram Bharosay Sharma.”

In the cross-examination, DW1 has admitted that the said document does not bear any date, however, he clarified during the cross-examination that it was drawn in 2010 on Diwali festival, his mother was the owner of agriculture land was having agriculture income at Tehsil Iglas, District Aligarh, UP. He has not brought the revenue record. His mother was having bank account at State Bank of India, Beswan, Aligarh and she was having approximate annual



income of Rs. 4 Lakhs. The cash of Rs. 7 Lakhs consisted of currency notes of Rs. 100/-, 500/- and 1,000/-. The accused was also present at that time and the document was in the handwriting of his elder brother Ram Kishan.

51. The Ld. PP for CBI has argued that the said document has not been validly proved as the same is bogus and sham document prepared by the accused to wriggle out of the disproportion assets case. On the contrary the Ld. Defence Counsel has argued that the said document has been validly proved to have been executed by the mother of the accused, the date of which has also been clarified during the cross-examination of DW1 to have been executed on the day of Diwali in the year 2010.

52. I have gone through the rival contentions with regard to this item. The said document has been validly proved by the accused as well as its execution. The prosecution could have disproved the said document by leading evidence to the contrary by proving either the said document did not bear the thumb impressions of the mother of the accused, which they could have done by comparing the thumb impression forensically with her admitted thumb impressions on the



admitted documents including the bank account etc. More so as the science of comparison of thumb impressions is an exact science unlike that of comparison of handwriting of an individual. In any case such kind of family arrangements are normally entered into in the joint families out of love and affection to equalize the things amongst siblings in order to avoid any heart burning and rancour later on, further in any case DW1 has claimed that she was having agriculture income which could have been disproved by leading evidence to the contrary by the prosecution as well.

The IO in any case in the charge sheet itself has mentioned on page 4 that the father of the accused Sh. Sukhdev Prasad was having 120 bighas of land in village Kila, Beswan, Tehsil Iglas, Aligarh. Therefore, she may have inherited some of the land from her husband, which could have also been rebutted by the prosecution by leading evidence to the contrary, as discussed above. Even otherwise, ladies in India have habit of saving money which they receive as gifts from relatives, parents, husband, sons etc. on marriage and other occasions, which accumulate over the period of time which they spend on their children on different occasions.

53. However, the Ld. PP for CBI has argued that as per the

explanation to Section 13(1) (e) "known sources of income with regard to this Section means income received from lawful source and such receipts have been intimated in accordance with the provisions of any law or rules or orders for the time being applicable to a public servant."

Therefore, he submits since the receipt of the said huge amount has not been intimated to the department as per the applicable conduct rules, the same cannot be considered as the genuine/lawful income of the accused. No doubt, it has been admitted by the defence that the accused did not intimate the department as per the applicable CCS Conduct Rules regarding the receipt of the said amount of Rs. 7 Lakhs in cash, which is clear cut infraction of applicable conduct rules, however, he has proved the source of the same to be lawful. The non intimation of the said receipt of Rs. 7 Lakhs in cash would only expose him to departmental proceedings under the relevant CCS Conduct Rules applicable to him and that will not make the source of money as tainted or unlawful. Further in view of judgment **Virender Singh (supra)** even if a public servant / accused may not have intimated the receipt of income from lawful sources to the department even then, he is not estopped from proving the source of receipt of income was lawful in his quest to satisfactorily account the pecuniary resources found or



possessed by him. As a consequence, accused has validly proved the receipt of the amount of Rs. 7 Lakhs under this item head. **Therefore, the benefit of the said amount of Rs. 7 Lakhs has to be extended to the accused under this item head.**

54. **Item No. 6 : Payment made to Sh. R.B. Sharma by LIC for policy no. 114842404 vide cheque no. 0815430 Drawn on corporation bank KG Marg of Rs. 25,000/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. PW30/B (D-18, page 3 to 6)**. **Therefore, this amount of Rs. 25,000/- under this head has to be taken as income of the accused.**

55. **Item No. 7 : Payment made to Sh. R. B. Sharma by LIC for policy no. 110832251 commencing from 28.05.1990 in the name of Sh. Ram Bharosay Sharma of Rs. 58,562/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. P12 (colly.) (D-19, page 1)**. It has also been admitted

by the prosecution as well as defence that in charge sheet inadvertently an amount of Rs. 58,562/- has been mentioned whereas the correct amount under this item head was Rs. 22,500/- only. Therefore, this amount of Rs. 22,500/- under this head only has to be taken as income of the accused.

56. **Item No. 8 : Payment made to Sh. R. B. Sharma by LIC for policy no. 330043052 in the name of Sh. R. B. Sharma commencing from 28.08.1993 at LIC, 12-H Branch, Rohini of Rs. 44,450/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. P13 (colly.) (D-20, page 2)**. Therefore, this amount of Rs. 44,450/- under this head has to be taken as income of the accused.

57. **Item No. 9 : Payment to Ram Bharosay Sharma by LIC for his policy no. 113134042 for which single premium of Rs.50,000/- was paid on 31.08.2004. He surrendered this policy and an amount of Rs. 65,167/- was paid to Sh. R. B. Sharma by LIC**



**vide cheque no. 0320375 dated 12.02.2007 of Rs. 65,167.**

 The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. P11 (colly.) (D-17, page 4)**. Therefore, this amount of **Rs. 65,167/-** under this head has to be taken as income of the **accused**.

58. **Item No. 10 (Item No. 11 as per chargesheet) :**  
**Interest Credit of Rs.1,01,175 till 16.09.2011 in Bank A/c No. 0622000100151040 at PNB, Sarvodya Enclave Branch in the name of Sh. Ram Bharosay Sharma of Rs. 1,19,790/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. PW24/D (D-43, page 4)**. Therefore, this amount of **Rs. 1,19,790/-** under this head has to be taken as income of the **accused**.

59. **Item No. 11 (Item No. 12 as per chargesheet) :**  
**Interest Credit of Rs.60,120/- till 16.09.2011 in Bank in FD A/c No.0622003107996030 at PNB, Sarvodya Enclave Branch in the**



name of Sh. Ram Bharosay Sharma. As per statement of Sh. RB Sharma, FD was made originally for Rs.50,000/- on 22.03.1996 and total balance is Rs.1,61,209/- and hence interest is Rs.1,11,209/-.

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide Ex. PW24/C (D-43, page 8). Therefore, this amount of Rs. 1,11,209/- under this head has to be taken as income of the accused.

60. Item No. 12 (Item No. 13 as per chargesheet) :  
Interest Credit of Rs.5,20,269/- till 16.09.2011 in Bank A/c No.SB/01/830058, CLSB/01/030118 and FD A/c no. KCC/01/090434 at Corporation Bank, Vasant Kunj Branch in the name of Sh. Ram Bharosay Sharma of Rs. 5,20,269/-.

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide Ex. PW17/B (D-50, page 3 to 17). Further, it has been admitted by the prosecution and defence that an amount of Rs. 9,689/- has to be added into the figure of 5,20,269/- under this item head. Therefore, this amount of Rs. 5,29,958/- under this head has

to be taken as income of the accused.

61. Item No. 13 (Item No. 14 as per chargesheet) :  
Interest Credit of STDR on 23.08.2011, as on 16.09.2011 in Bank  
STDR A/c No. 30586875982 at SBI, Mehrauli Branch in the name of  
Sh. RB Sharma of Rs. 16,448/-.

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide Ex. PW22/H (D-38, page 5). Therefore, this amount of Rs. 16,448/- under this head has to be taken as income of the accused.

62. Item No. 14 (Item No. 15 as per chargesheet) :  
Interest Credit till 16.09.2011 in Bank A/c No.10628657721 at SBI,  
Mehrauli Branch in the name of Sh. RB Sharma / Smt. Shashi Rani  
Sharma of Rs. 30,005/-.

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide Ex. PW22/J & Ex. P32 (D-38, page 25 and D-70, page 13). Therefore, this amount of Rs. 30,005/- under this head has to



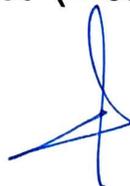
be taken as income of the accused.

63. Item No. 15 (Item No. 16 as per chargesheet) :  
Interest Credit till 16.09.2011 in Bank PPF A/c No.10628745222 at SBI, Mehrauli Branch in the name of Sh. RB Sharma of Rs. 86,353/-.

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide Ex. PW22/J & Ex. P32 (D-38, page 25 and D-70, page 14). Therefore, this amount of Rs. 86,353/- under this head has to be taken as income of the accused.

64. Item No. 16 (Item No. 18 as per chargesheet) :  
Agriculture income of RB Sharma as per claim of the accused on the basis holding of agriculture land from 1987 to 1995 (Rs.3,33,000) and APRs from 1996 to 2011 (Rs.14,82,000) of Rs. 18,15,000/-.

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide Ex. PW9/D & Ex. P30 (D-69, page 1C to 36C, D-70,



**page 3 & 4).** In any case, the same is also admission on the part of the accused as he had claimed this to be the agricultural income for the check period as per the reply given by him placed on the record to the IO in response to notice for explanation issued by the IO during the course of the investigation. **Therefore, this amount of Rs. 18,15,000/- under this head has to be taken as income of the accused.**

65. **Item No. 17 (Item No. 19 as per chargesheet) :**  
**Receipts from Ganesh Stockinvest Pvt. Ltd. of Rs. 2,27,167/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. P29 (D-62).** **Therefore, this amount of Rs. 2,27,167/- under this head has to be taken as income of the accused.**

66. **Item No. 18 (Item No. 21 as per chargesheet) :**  
**Payment to Sh. Ram Bharosay Sharma for his policy no. 113914438 in his name commencing from 01.01.2004 at LIC, 11-J, Branch till 16.09.2011. An amount of Rs.30,000/- was paid to Sh. R B Sharma by LIC vide cheque no. 0339631 dated 05.01.2008 of Rs.**

**30,000/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. P11 (D-17, page 5)**. Therefore, this amount of Rs. 30,000/- under this head has to be taken as income of the accused.

67. **Item No. 19 (Item No. 22 as per chargesheet) :**  
Interest Credit till 16.09.2011 in Bank A/c No.04401600000145 at HDFC Bank, Naraina Branch in the name of Sh. RB Sharma/Smt. Shashi Rani Sharma of Rs. 1,816/-.

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. PW23/D (D-45, page 32)**. Therefore, this amount of Rs. 1,816/- under this head has to be taken as income of the accused.

68. **Item No. 20 (Item No. 26 as per chargesheet) :**  
Interest Credit till 16.09.2011 in Bank A/C no. 04401000019168 at HDFC Bank, Naraina Branch in the name of Sh. R. B. Sharma/Smt.

**Shashi Rani Sharma of Rs. 1,276/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. PW23/B (D-45, page 9)**. Therefore, this amount of **Rs. 1,276/-** under this head has to be taken as income of the **accused**.

69. **Item No. 21 (Item No. 29 as per chargesheet) :**  
**Interest Credit till 16.09.2011 in Bank A/c No.04401930001886 at**  
**HDFC Bank, Naraina Branch in the name of Sh. Abhishek Kumar**  
**Sharma/ Sh. RB Sharma of Rs. 12,844/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. PW23/C (D-45, page 23)**. Therefore, this amount of **Rs. 12,844/-** under this head has to be taken as income of the **accused**.

70. **Item No. 22 (Item No. 30 as per chargesheet) :**  
**Interest Credit till 16.09.2011 in Bank A/c No.16711000005524 at**  
**HDFC Bank, Mehrauli in the name of Sh. RB Sharma/Smt. Shashi**

**Rani Sharma of Rs. 1,442/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. PW11/C (D-46, page 10)**. Therefore, this amount of **Rs. 1,442/-** under this head has to be taken as income of the accused.

71. **Item No. 23 (Item No. 31 as per chargesheet) :**  
**Interest Credit till 16.09.2011 in Bank A/c No.16711000007295 at HDFC Bank, Mehrauli in the name of Paras Kumar Sharma of Rs. 4/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. P25 (D-48, page 2)**. Therefore, this amount of **Rs. 4/-** under this head has to be taken as income of the accused.

72. **Item No. 24 (Item No. 32 as per chargesheet) :**  
**Interest Credit of Rs.8,071 till 16.09.2011 in Bank A/c No.2018101002986 (old A/c no. 2986) at Canara Bank, Mehrauli Branch in the name of Sh. RB Sharma of Rs. 28,960/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. PW25/B (colly.) (D-40 page 4)**. It has also been admitted by the prosecution as well as defence that in charge sheet inadvertently an amount of Rs. 28,960/- has been mentioned whereas the correct amount under this item head was Rs. 8,071/- only. **Therefore, only this amount of Rs. 8,071/- under this head has to be taken as income of the accused.**

**STATEMENT 'D'**  
**EXPENDITURE DURING THE PERIOD OF CHECK**

73. **Item No. 1 : One third of salary of accused RB Sharma Gross salary of Rs.41,39,216/-. Total income tax is Rs.1,26,026/- as per ITRs upto AY 2011-12. Thus, the gross salary after deducting income tax is Rs.40,13,190/- and one third of Rs.40,13,190/- is Rs.13,37,730/- (charge sheet amount 13,37,730/-).**

Both the prosecution and defence have admitted the amount with regard to this item head and which has even otherwise been proved vide documents, **Ex. P13, P14, P15 and P36** and vide **Ex. PW5/A, PW6/A and Ex. PW6/B, Ex. PW8/A and PW9/B**. After calculation by the prosecution and the defence, the correct amount



was admitted as Rs. 11,39,954/-. The Ld. Defence Counsel also feebly argued that this 1/3rd amount of the total salary of the accused as non verifiable expenses has to be taken as a last resort, even as per the CBI Manual. On the other hand, Ld. PP for CBI has relied upon the judgment of ***State of Punjab Vs. Sajjan Singh (supra)*** for the proposition that 1/3rd of the net salary of the accused has to be taken as his non verifiable expenses, as this is the bare minimum the accused could have spent on house hold expenses, vegetables, clothing, electricity and water charges, groceries and other sundry expenses, which is bare minimum to survive.

The Ld. Defence Counsel has also argued that the accused belonged to agricultural family, therefore, he used to receive pulses, oil, flour which used to be provided by his parents therefore, this amount calculated to be 1/3rd of his net salary is on the higher side. The said argument is without any substance, as the accused has failed to lead any evidence in this regard to prove this defence. In any case the accused was having a family of two sons and spouse and this 1/3rd component also includes expenses with regard to electricity and water as per the CBI Manual.

This 1/3rd amount has been taken as a lump-sum taking into account that nobody is expected to keep invoices or bills with

regard to the purchase of vegetables, fruits, groceries, clothes over a long period of time, further a person cannot be expected to live on thin air, he would be spending some amount for his and his family's maintenance, for bare minimum sustenance. **Therefore, this 1/3rd amount of the net salary of accused of Rs. 11,39,954/- has been rightly assessed as non verifiable expenses of the accused, under this item head.**

74. **Item No. 2 : Payments made by Sh. RB Sharma and Abhishek Kumar Sharma for infrastructure bond of IIFCL Ltd. of Rs. 20,000/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. P14 & 15 (D-21 & 22)**. **Therefore, this amount of Rs. 20,000/- under this head has to be taken as expenditure of the accused.**

75. **Item No. 3 : Premium of Rs.1 Lakh paid to Birla Sun Life Insurance policy no. 003803585 commencing from 21.01.2010 in the name of Sh. Ram Bharosay Sharma of Rs. 29,008/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. P19 (D-27, page 11)**. Therefore, this amount of Rs. 29,008/- under this head has to be taken as expenditure of the accused.

76. **Item No. 4 : Premium paid on LIC policy no. 110832251 commencing from 28.05.1990 in the name of Sh. Ram Bharosay Sharma of Rs. 22,500/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. P12 (D-19, page 2)**. It has also been admitted by the prosecution as well as defence that in charge sheet inadvertently an amount of Rs. 22,500/- has been mentioned whereas the correct amount under this item head was Rs. 58,562/- only. Therefore, this amount of Rs. 58,562/- under this head has to be taken as expenditure of the accused.

77. **Item No. 5 : Amount paid by RB Sharma till 16.09.2011 to LIC for policy no. 111734909 commencing from**

**28.05.1994. No payment has been made against this policy of Rs. 26,010/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. P12 (D-19, page 3)**. Therefore, this amount of Rs. 26,010/- under this head has to be taken as expenditure of the accused.

78. **Item No. 6 : Premium paid on LIC policy no. 114842404 in the name of Sh. RB Sharma of Rs. 70,385/-.**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. PW30/B (D-18, page 2)**. Therefore, this amount of Rs. 70,385/- under this head has to be taken as expenditure of the accused.

79. **Item No. 7 : Premium paid on LIC policy no. 114721129 in the name of Sh. Ram Bharosay Sharma of Rs. 58,232/.**

The same has been admitted during the course of the

arguments by the defence. Even otherwise, the same has been proved vide Ex. PW30/B (D-18, page 2). Therefore, this amount of Rs. 58,232/- under this head has to be taken as expenditure of the accused.

80. Item No. 8 : Premium paid on LIC policy no. 330043052 in the name of Sh. RB Sharma commencing from 28.08.1993 at LIC, 12-H Branch, Rohini of Rs. 32,988/-.

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide Ex. P13 (D-20, page 2). Therefore, this amount of Rs. 32,988/- under this head has to be taken as expenditure of the accused.

81. Item No. 9 : Amount paid by RB Sharma for his policy no. 113134042 at LIC, 11-J, Branch for which single premium of Rs.50,000/- was paid on 31.08.2004. He surrendered this policy and an amount of Rs.65,167/- was paid to Sh. R B Sharma by LIC vide cheque no. 0320375 dated 12.02.2007 of Rs. 50,000/-.



The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide Ex. P12 (D-19, page 7). Therefore, this amount of Rs. 50,000/- under this head has to be taken as expenditure of the accused.

82. **Item No. 10 : Amount paid by RB Sharma to LIC for his policy no. 113914438 in his name commencing from 01.01.2004 at LIC, 11-J, Branch till 16.09.2011. Annual premium of Rs.12,091/- is being paid. The policy is still in force of Rs. 97,052/-**

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide Ex. P11 (D-17, page 6). Therefore, this amount of Rs. 97,052/- under this head has to be taken as expenditure of the accused.

83. **Item No. 11 : Amount paid by RB Sharma for his policy no. 114840339 at LIC, 11-J, Branch for which single premium of Rs.50,000/- was paid on 28.03.2006. The policy is still**

in force and nothing has been paid to Sh. RB Sharma till 16.09.2011 of Rs. 50,000/-.

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. P11 (D-17, page 5)**. Therefore, this amount of Rs. 50,000/- under this head has to be taken as expenditure of the accused.

84. **Item No. 12 : School fee of Paras Kumar Sharma to New Green Field Junior School for class I to IV of Rs. 22,245/-.**

With regard to this head, the accused has claimed that the school fees of Paras vide **Ex. PW32/B, (D-31, page 2)** was paid by his wife Smt. Shashi Rani Sharma. The said plea normally cannot be accepted, as who else but father will pay or bear the fees of the children, but in the present case mother was also filing income tax returns since the year 1997-98 which are **Ex. P31 (D-70, page 100-125)**, she while appearing as DW3 has claimed so in her deposition that she used to pay the fees of her sons in cash from her income, which was from tuition, acupressure and magnate therapy and rental income. The IO had claimed that she was not having any tuition

income and from acupuncture, however, he admitted that she was having rental income, as he had examined certain tenants in this regard, therefore, it is quite possible that she may have paid school fees of her son Paras from her rental income. **Therefore, this amount cannot be treated as expenditure of accused and this amount of Rs. 22,245/- has to be deleted from the expenditure head of the accused.**

85. **Item No. 13 : School fee of Abhishek Kumar Sharma to New Green Field Junior School for class I to IV of Rs. 24,565/-.**

In view of the detailed discussion held above with regard to item no. 12, the same principle / logic would also apply to this item in totality. Therefore, it is quite possible that she may have paid school fees of her son Paras from her own income. **Therefore, this amount cannot be treated as expenditure of accused and this amount of Rs. 24,565/- has to be deleted from the expenditure head of the accused.**

86. **Item No. 14 : School fee of Paras Kumar Sharma to New Green Field School, Saket for class V to XII of Rs. 72,610/- &**

**Item No. 15 : School fee of Abhishek Kumar Sharma**

**to New Green Field School Saket for class V to XII of Rs. 41,550/-.**

These items are taken up together, DW3 Smt. Shashi Rani Sharma has claimed in her testimony that she was income tax assessee since 1997-98. Therefore, she was paying the school fees of her children and her income tax returns were seized by the IO vide **Ex. P32 (D-70, page, 100 – 125)**. In this regard she has claimed that as per admitted document **(D-70, page 187, 197)** an amount of Rs. 62,250/- was paid by her from her sole saving account with Canara Bank, Mehrauli bearing no. 4180 strongly refuted by the prosecution, however, since she had been filing income tax returns as discussed above since 1997-98 which have also been admitted by the prosecution, therefore, she had means to pay the fees of her children. It is not only father who can pay the fees of his children, even the mother had equal responsibility.

Further, as per the judgment of ***Krishnanand Agnihotri (supra)***, the prosecution has failed to establish that the said money was provided by the accused R. B. Sharma. **Hence amount of Rs. 62,250/- has to be deducted from the expenditure head of the accused under these items.**

Regarding the remaining amount of Rs. 51,910/- under these item heads, it has been admitted by the defence that this amount was paid by the accused. Consequently, this amount only can be considered as expenditure of the accused under these item head(s).

87. **Item No. 16 : Fee etc. paid for Abhishek Kumar Sharma to NSIT, Dwarka New Delhi of Rs. 1,01,300/-.**

As per the admitted document (D-70, page 188) and as per the testimony of DW3 wife of the accused Smt. Shashi Rani, she has claimed payment of this amount from her sole account with Canara Bank. In view of the detailed discussion held above with regard to the item nos. 14 & 15 the same principle / logic will also apply here in totality. **Therefore, this amount of Rs. 1,01,300/- cannot be considered as expenditure of the accused and the same has to be deleted.**

88. **Item No. 17 : Fees paid for Paras Kumar Sharma for doing B.Tech(IT) from GL Bajaj Institute of Technology & Management, Plot No. 2, Knowledge Park-III, Greater Noida, UP,**



from 2008-09 to 2011-12 of Rs. 4,46,700/-.

As per the admitted documents (D-45 page 23 and D-29, page-5) an amount of Rs. 49,000/- and as per admitted documents (D-45 page 24 and D-29 page 8), an amount of Rs. 79,000/- was paid from the joint accounts of Abhishek and R. B .Sharma from the HDFC Bank account no. 1886. As already discussed above, Abhishek was working with Microsoft since 2009 and had been filing the IT returns since the year 2008-09 as per the charge sheet. Therefore, he had the financial capacity since 2008-09.

However, at the same time, the defence has failed to prove that the said amount was paid by cheques issued by Abhishek only or that money into the said account was only contributed by Abhishek and no amount was contributed by accused R. B. Sharma therefore, it is difficult to apportion the exact amount as to who had paid what amount under this item head.

Therefore, apportioning the same as per the principle of common sense, reasonable basis and logic, it can be safely said that Abhishek may have contributed half of the said amount i.e. 49,000/- + 79,200/- (divided by 2) i.e. 64,100/- so this amount can be attributed to Abhishek and the rest equal amount has to be attributed to the

accused. **Therefore, an amount of Rs. 64,100/- has to be deducted from the expenditure of the accused under the item head.**

89. The defence has further claimed under this item that an amount of Rs. 3,15,500/- was contributed from the joint account of Smt. Shashi Rani and accused R. B. Sharma with HDFC Bank Naraina, saving account no. 145 **(D-45, page 31 & 32)**. The defence has accordingly claimed that entire amount was paid by Shashi Rani under this item head for this amount as she has claimed so while appearing as DW3 and she had also been filing income tax returns since the year 1997-98 as **Ex. P32 (colly.) (D-70, page 100-125)**. After examining this plea, it is found that the defence has failed to prove from the documents placed on record that the entire amount was paid by Shashi Rani Sharma or that the entire amount coming into the said account was contributed by her only and accused R. B. Sharma had not role or contribution in the same.

90. No doubt that she had been filing IT returns in the year 1997-98 claiming rental and other incomes which though IO has only admitted the rental income and denied the remaining sources of

income, however, as discussed above, both the mother and the father have the responsibility of paying the fees of the children and the prosecution has failed to prove that the money was only contributed in the said account by the accused R.B. Sharma or that he provided the money to Shashi Rani Sharma in the said joint account in view of the judgment ***Krishana Nand Agnihotri (supra)***. Therefore, both of them i.e. both parents may have contributed equally towards the fees of their son Paras. Therefore, taking the common sense and reasonable view of the matter, the amounts which can be apportioned under the said head for Rs. 3,15,500/- can be said to be 50% each i.e. 50% can be said to be contributed by the accused and remaining 50% by Smt. Shashi Rani Sharma. **Therefore, an further amount of Rs. 1,57,750/- has to be deducted from the expenditure head of the accused under this head.**

**Regarding the remaining amount of Rs. 3,700/- under this item head, the defence has admitted that this was contributed by the accused.**

91. **Item No. 18 : Payments made for commercial plot no. C-8, UP Avas Vikas, Mathura in Krishan Vihar Yojna, by Sh. R.**



**B. Sharma of Rs. 6,65,934/-.**

The relevant documents pertaining to this item head are **(D-35) Ex. PW14/A to Ex.PW14/C**. As per the testimony of PW14, he has proved the letter dated 01.08.2013 **(D35) Ex. PW14/A** i.e. letter regarding allotment of plot no. C-8, Krishna Vihar Yojna, Mathura and details of payment received for said plot vide statement **Ex. PW14/B**, as per him out of total amount of Rs. 6,65,000/-, towards the cost of the said plot, an amount of Rs. 50,000/- was deposited by way of draft and rest in cash, he has proved the sale deed, letter of allotment etc. in respect of the said plot as **Ex. PW14/C (colly)**.

The defence has claimed that the plot was purchased by the father of the accused i.e. to say that the money was provided by him for the purchase of the said plot, in this regard DW2 Subhash Chand Sharma has deposed as under :

**“I know accused Ram Bharosay Sharma as he is my sister's husband (brother-in-law). The plot no. C-8, UP Awas Vikas, Krishna Vihar Yojna, Mathura UP was purchased by Sh.Sukhdev Sharma (for his son i.e. accused) in the name of accused R.B. Sharma on**

**quarterly installments of Rs.23,727/-. The payment was made by Sukhdev Sharma. The total amount was more than Rs.5 lakhs. It was purchased in the year 2001.”**

To this there has been no cross-examination on behalf of the prosecution on this aspect.

92. The defence had to prove this fact in view of the judgment of ***Krishana Nand Agnihotri (supra)*** which will apply to the plea of the defence as well in reverse that the money for the purchase of this plot was provided by the father of the accused and the accused was only the benamidar. The said evidence has to be of strong probative value or force to prove this fact. No documentary evidence has been provided by the defence in this regard, though, the oral testimony of DW2, has gone unrebutted and unchallenged.

Though, it has also been mentioned in the charge sheet and in the testimony of DW1 that the father of the accused expired in 2006 and the last installment was deposited in the March 2005 before the death of Sukhdev Sharma, it is claimed that father of the accused was holder of 120 bigas of land (as per page 4 of the charge sheet in



his village Kila, Beswan, Tehsil Iglas, Aligarh). At the same time, the accused has failed to produce any material evidence to prove this fact that his late father was having substantial income from the said land at his disposal.

Further, DW2 Subhash Chand Sharma was brother-in-law i.e. the accused was his sister's husband, therefore, the said witness cannot be said to be aware about the affairs of the father of the accused. Further no evidence has been lead that any person had seen DW2 along with deceased father of the accused while depositing the said installment(s) in cash towards the said flat nor any source of the funds of his deceased father, from where he may have drawn money either from his bank or other sources have been placed or proved on the record. Further, the accused had also not intimated his department at that point of time in this regard that his father had deposited the said installments in cash, if he had done so, the same would have had made the probative force of this item very potent.

Though, it is not unnatural for the father in the context of Indian Society to make payment towards the said plot when he had financial means to do so. However, in view of the above discussion, this fact has not been proved on preponderance of probabilities and the same does not appear to be probable taking into account normal



worldly affairs and human conduct. Therefore, this amount of Rs. 6,65,934/- has been rightly held to be the expenditure of the accused under this item head.

93. Item No. 19 : Investment through SMC Global Securities Ltd. through his trading Account n. HQA0661 and D. Mat Account no.1201910101834020 by Sh. R. B. Sharma of Rs. 3,00,000/-.

The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide Ex. PW38/A (colly.) (D-67). Therefore, this amount of Rs. 3,00,000/- under this head has to be taken as expenditure of the accused.

94. Item No. 20 : LTC difference in the year 2010 paid by RB Sharma in the year 2010 and 2011 (6324 +12223) Rs. 18,547/-.

The relevant documents are Ex. PW1/B (D-71 N9 and 12). in this regard it is the plea of the accused that this difference in the LTC bills submitted by the department and those sanctioned was the money, which he had actually spent in excess after borrowing from

his wife which he would have returned to her if the said excess had been sanctioned in his favour.

This plea is without any substance as the government employee can only claim reimbursement of bills including LTC bills for the expenditure incurred by him during the said journey pertaining to which the LTC bills have been submitted, as per his entitlement. He or she does not claim the expenditure incurred by his spouse from the department. In any case one only takes such kind of holidays when one is financially comfortable. More so accused was working in the government department and was getting decent salary.

Therefore, he must have had financial resources to incur such expenditure. In any case no such plea had been written or forwarded by him in the relevant document while submitting the LTC bills. **Therefore, this plea is rejected and this amount of Rs. 18,547/- has to be taken as his expenditure under this item head.**

95. **Item No. 21 : Nokia phone purchased vide bill no. 127 dt. 01.07.05 from Mobile Arcade, 1091, Ward no. 1, Next to Ambavate Complex Mehrauli, New Delhi-30 of Rs. 5850/-.**

The relevant documents are **Ex.P3 (D-16, page 15).**

Accused purchased on 01.07.2005 a Nokia phone in his name. This plea that the said phone was gifted by his wife is not tenable. If that was so then she could have had the bill in her name. In any case, as per settled law, to prove a benami transaction in favour of particular person, the onus lies on the person saying so. This plea has not been established. **Therefore, this amount of Rs. 5,850/- has been rightly added into the expenditure of the accused under this item head.**

96. **Item No. 22 : Expdt incurred vide cheque no. 840089 dated 10.03.2007 for Rs.60,000/- has been issued from account no.2986 Canara Bank in favour of Ganesh Stock Investment Pvt. Ltd. of Rs. 5,40,000/-.**

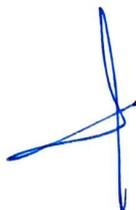
The same has been admitted during the course of the arguments by the defence. Even otherwise, the same has been proved vide **Ex. P29 (D-62)**. **Therefore, this amount of Rs. 5,40,000/- under this head has to be taken as expenditure of the accused.**

97. **Item No. 23 : Payments made to MTNL by RB Sharma for landline no. 26644117 installed in his house of Rs.**

**66,739/-.**

Regarding this item, it has been claimed by the defence that out of this total amount of Rs. 66,739/- an amount of Rs. 2,445/- was paid from the joint account of Abhishek and R.B. Sharma with HDFC Bank, Naraina having account no. 1886. Further an amount of Rs. 3,561/- was paid from the joint account of Paras and R.B. Sharma having account no. 9168 from HDFC Bank, Naraina. Since, it would be difficult to apportioned these small accounts towards the payment of telephone bills and the accused being the principal earner must have paid the said amount of Rs.2,445/- and 3,561/- as he was the principal earner of the family and therefore, was having responsibility to pay the telephone bills. Therefore, these amounts can be attributed to the accused.

Further, it has been claimed that an amount of Rs. 1,289/- (**D-52, page 2 to 13**) has been paid from the sole account of Abhishek Sharma no. 2490 ICICI Bank, Hyderabad. Since the Abhishek was earning and had started working with Microsoft in 2009 as per the charge sheet, the said amount must have been paid by Abhishek from his own savings. **Therefore, an amount of Rs. 1,289/- only has to be deducted from the expenditure of the accused**



**under this item head.**

98. **Item No. 24 : Expenditure of accused RB Sharma on house rent as rent paid/claimed for income tax benefits of Rs. 6,49,028/-.**

It has been contended by the accused that for certain financial years as per the record, in the Form 16 no HRA rebate was given to the accused or claimed by him as no rent receipt was filed by him for the said period with the department. For this reason, rent rebate was not given. Therefore, the same cannot be considered as the expenditure of the accused. On the other hand, the prosecution has claimed to the contrary.

Form 16 is a certificate issued u/S. 203 of the Income Tax Act for the tax deducted at the source (TDS) from the income under the head 'salary' it is issued on deduction of tax by the employer from employee salary and deposit the same with the Government. The certificate provides detailed summary of the amount paid or credited to the employee and the TDS on the same. This form is issued annually in accordance with the provisions of Income Tax Act normally after the end of the financial year, for which it is issued, it is compulsory for the



employer to issue the certificate to the tax payer.

In view of the above, the said contention is without substance, as though no rent rebate was claimed by the accused with the department by submitting the rent receipt, but at the same time, the accused claimed the said rebate in the income tax returns filed by him for particular financial years / assessment years. As discussed above, the Form 16 only depicts the TDS deducted by the employer from the salary of the employee as per the information provided by the employee. In case the employee does not supply any information to the employer with regard to the deductions with regard to house rent, PPF, GPF and other savings then department will deduct TDS on the entire salary without giving him the benefits of exemption.

However, later on the employee can claim these deductions in the income tax returns for the corresponding financial year claiming deduction for the HRA by submitting rent receipts and deductions regarding PPF, GPF etc. by showing actual deposits and thereby claiming refund from the department, which the accused has done in this case, as he had claimed the deduction of HRA in the income tax returns for the corresponding financial years with the department and has been given benefit of deductions accordingly.

Therefore, this plea cannot be sustained. Therefore, this entire amount of Rs. 6,49,028/- has to be considered as expenditure of the accused under this item head.

99. The balance sheet of Income / Assets / Expenditure of accused, works out after detailed discussion above as under:-

### **FINAL BALANCE SHEET OF ASSETS, INCOME & EXPENDITURE**

#### **ITEMS TO BE ADDED / DELETED FROM STATEMENT 'A'**

Vide Item No. 2 : + Rs. 3,15,000/- (to be added into this item)

#### **ITEMS TO BE ADDED / DELETED FROM STATEMENT 'B'**

- (1) Vide Item No. 2 : - Rs. 23,390/- (to be deleted from this item)
- (2) Vide Item No. 3 : - Rs. 1 Lakh (to be deleted from this item)
- (3) Vide Item No. 4 : Rs. 9 Lakh will go into income head or Statement C
- (4) Vide Item No. 5 : - Rs. 31,081/- (to be deleted from this item)
- (5) Vide Item No. 6 : - Rs. 10,306/- (to be deleted from this item)
- (6) Vide Item No. 7 : - Rs. 27,918/- (to be deleted from this item)

**Total Amount To be Deleted**  
**Under This Head : Rs. 1,92,695/-**



under this head.

- (2) Item No. 4 : Correct amount under this head is Rs. 58,562/- instead of Rs. 22,500/- = Therefore difference + (Rs. 36,062/-) to be added into expenditure.
- (3) Item No. 12 : - (Rs. 22,245/-) to be deleted from this item head.
- (4) Item No. 13 : - (Rs. 24,565/-) to be deleted from this item head.
- (5) Item No. 14 & 15 : - (Rs. 62,250/-) to be deleted from this item head.
- (6) Item No. 16 : - (Rs. 1,01,300/-) to be deleted from this item head.
- (7) Item No. 17 : - (Rs. 64,100/-) to be deleted from this item head.
- (3) Item No. 23 : - (Rs. 1,57,750/-) to be deleted from this item head.
- (3) Item No. 23 : - (Rs. 1,289/-) to be deleted from this item head.

Total amount to be deleted from expenditure Rs. 5,95,213/-

(1) Assets as per Charge sheet : Rs. 61,47,953/-

(Items to be deleted from Statement B as above) : - Rs. 1,92,695/-

Rs. 59,55,258/-

**(2) Assets at the beginning of check period**

**: Rs. 3,15,000/- + Rs. 25,333/-  
= Rs. 3,40,333/-**

**Assets acquired during check period**

**: 1 – 2 = Rs. 56,14,925/-**

**Income during check period as per charge sheet**

**: = Rs. 75,72,250/-  
= to be added from statement C, as above Rs. 5,30,914/-**

**Total income during the check period is**

**: Rs. 81,03,164/-**

**Further an amount of Rs. 9 Lakh has to be added into the total income as per item no. 4 from Table B, as above :**

**: Rs. 81,03,164/-.  
Rs. 9,00,000/-**

**Total Income during the check period thereby is :**

**Rs. 90,03,164/- (Net Income)**

**Expenditure as per chargesheet**

**: Rs.47,48,973/-  
- Rs. 5,95,213/- (to be deleted as per  
\_\_\_\_\_ Table B.)**

**Rs. 41,53,760/- (Net expenditure)**

**Likely savings**

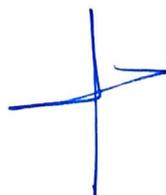
**: Rs. 90,03,164/- - Rs. 41,53,760/-  
(Total income – Total expenditure)**

**Likely savings**

**= Rs. 48,49,404/-**

**DA**

**= (Assets – Likely savings)  
= (Rs. 56,14,925/- - Rs. 48,49,404/-)**



DA = Rs. 7,65,521/-

Percentage (%) of DA =  $\frac{\text{Rs. } 7,65,521 \times 100}{90,03,164}$

Percentage (%) DA = 8.50%

The legislature has nowhere prescribed in the PC Act or the relevant Section 13(1)(e) read with Section 13(2) of the PC Act, as to what proportion of income would be considered as disproportionate or what should be amount of disproportion, which is permissible in law, if at all. The answer to the same can be found in the judgment of Hon'ble Supreme Court in re: ***Krishnanand Agnihotri (supra)***, where in outer limit of 10% disproportion to the total income was held permissible in para 33 of said judgment.

Since, the total disproportion as discussed above in present case comes out to be 8.5%. Consequently, same is squarely covered by the above judgment.

Generally evidence in any case or trial is weighed on the basis of probative force accorded to particular item or piece of evidence, or finally to the entire mass of the evidence, as the standard of proof in any trial is probabilistic in nature i.e. in civil cases the standard of proof is "**preponderance of probabilities**" and in criminal



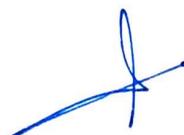
trial, the standard of proof is “**proof beyond reasonable doubt.**”

In the present case, the entire prosecution and defence evidence is based on mathematical calculation(s), which are certain based on exact equation(s) and figure(s). Since mathematical precision/exactitude clearly proves or disproves the case one way or another.

100. **TO SUM UP**

In view of above detailed analysis of evidence and discussion, the prosecution has failed to make out a case against the accused Ram Bharosay Sharma for the offence(s) u/S. 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988. The accused Ram Bharosay Sharma stands acquitted of the said charge(s). The previous bail bond(s) of accused Ram Bharosay Sharma stand cancelled. Previous surety stands discharged. Documents, if any be returned after cancelling the endorsement, if any, if the same are not resubmitted while furnishing bail bonds u/S. 437-A CrPC.

The said accused is stated to have already furnished his bail bond(s) in compliance of Section 437-A CrPC, which will remain



valid for a period of six months from today, as per the provisions of

Section 437-A CrPC.



File be consigned to record room.

**Announced in the Open Court  
on this 15<sup>th</sup> day of Sept., 2020.**

  
**(Sanjeev Aggarwal)  
Special Judge (PC Act) (CBI)-02  
Rouse Avenue District Courts  
New Delhi**