

- 1. No addition on the basis of unsigned draft agreement to sell found during survey without verification of its legitimacy.** The findings of the tribunal are factual. The Assessing Officer had relied upon an unsigned agreement, which was found during the course of survey and did not proceed further by examining the person, who had drafted the agreement or the witness. The first appellate authority and the tribunal, on the other hand, have relied upon several factors to hold that the draft agreement was not executed/signed and implemented. There were separate transactions with third parties and the transaction between the assessee and United Special Ispat Limited was only in respect of 5.431 acres of land and not for 75 acres of land subject matter of the draft agreement. We also notice that the Assessing Officer did not make addition of Rs. 3 crores, the amount mentioned in the "draft agreement to sell" but addition of Rs.1.15 crores was made. The draft agreement to sell could have been the starting point of investigation and further detailed verification, which has not been carried out. In the absence of the said investigation and evidence, it is not possible to hold that the orders passed by the first appellate authority and the tribunal are perverse. We also note that the stand of the respondent-assessee has been consistent. The appeal is accordingly dismissed. **Commissioner of Income-tax, Central –II v.AKME Projects Ltd [2014] 221 Taxmann 202 (Delhi)**
- 2. Where additions based on the basis of documents copied during survey, it cannot be said that assessment was completed without confronting him with documents relied upon by AO.** In the totality of the facts and circumstances, it is purely a case where the assessee had tried to find one excuse or the other for not complying with the notices/show-cause notice/explanation sought by the authorities below. The plea of the assessee that the assessment was completed without confronting him with the documents or without supplying him the copies of the documents relied upon are ill-founded. This is the case of survey, where the documents found from the possession of the assessee were only identified by putting marks on the said documents and copies of the same were taken by the survey team and original were available with the assessee. Despite show-cause notices issued to him, there was no compliance and originals of the said identified documents/books were not produced before the Assessing Officer in the original and set aside proceedings. This is case of survey and not search and seizure operation where documents and books of account found are impounded. There is no recourse to impounding of documents/books during the survey. Despite the same, the Assessing Officer gave notice to the assessee time and again to collect the photocopies of the said documents, which were not complied with by the assessee, though he claims to have received the said notices belatedly. Such defaulters cannot take shelter under the provisions of non-allowance of opportunity or non confrontation of the alleged documents. The assessee has time and again failed to comply with various opportunities being allowed and in such cases where the assessee is finding one excuse or the other for non-compliance before the authorities below, there is no merit in the pleas raised by the assessee in the present case. This ground of appeal is thus dismissed. **Subhash Chander v. Income-tax Officer [2013] 61 SOT 57(Chandigarh - Trib.)**