

IN THE COURT OF SPECIAL JUDGE, C.B.I.-II, BHUBANESWAR.

PRESENT :

**Dr. A.K.Mishra,
Special Judge, C.B.I.-II, Bhubaneswar.**

T.R.Case No. 19/21 of 2013/2010
R.C.Case No. 28(A) of 2010.

Date of Argument: 9.10.2015.
Date of Judgment: 16.10.2015.

REPUBLIC OF INDIA.

Versus.

Sri Pradeepta Kumar Jena, aged about 52 years,
Son of late Giridhari Jena, Vill.Durgapur, P.S.Delanga,
Dist. Puri.
Presently residing at : Qr.No. B-65, Rail Vihar,
Chandrasekharpur, Bhubaneswar, P.S.Chandrasekharpur,
Dist.Khurda.

... Accused.

For the prosecution: Sri K.C.Mishra, Sr.P.P.C.B.I.
Sri A.Jaiswal, P.P. C.B.I.

For the Defence : Sri D.P.Parija & Associates, Advs.

Offence u/s. 13(2) read with Section 13(1) (e) of
the Prevention of Corruption Act, 1988.

JUDGMENT

1. Accused stands indicted u/s. 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988 for having in possession of disproportionate assets to his known source of income during the check period from 1.1.98 to 31.3.2008 as a public servant.

2. Prosecution case in short is that accused after passing Civil Engineering from REC Rourkela in the year 1985, joined in Indian Railway service in January, 1990 and during the relevant period accused was serving as D.E.N East Coast Railway, Khurda Road. He married to Smt. Snehalata Jena (D.W.17) in the year 1992 and became parent of two daughters. On receipt of reliable information the Central Bureau of Investigation (CBI) in case No. R.C. 09(A) of 2008 conducted search in the residential premises of accused on 2.4.2008 and 3.4.2008. Considering the total income of accused and his wife during the check period from 1.1.98 to 31.3.2008 as well as expenditure, accused was found in disproportionate assets to the tune of Rs.36,75,266/- and for that Superintendent Of Police, C.B.I. Bhubaneswar registered an F.I.R bearing No. RCO152008A0028 on 31.10.2008 Ext.289 and directed Inspector C.B.I. for investigation. In course of investigation it was detected that accused had acquisition of assets amounting to Rs.1,12,693/- as a public servant at the beginning of check period 31.3.1998. After end of check period the accused and his wife were found to have assets to the tune of Rs.67,73,937/-. At the same time the income of the accused was found to be Rs.58,11,573/- and expenditure to the tune of Rs.10,09,791/-. Accordingly as against likely savings of

Rs.48,01,782/-, the accused was found to have in possession of pecuniary resources amounting to Rs.66,61,244/- and thereby the accused was found in possession of disproportionate assets to the tune of Rs.18,59,462/-. The same having not been accounted for by the accused, the sanction order u/s.19(1)(a) of the P.C.Act was obtained from the competent authority and charge sheet No.14 dated 18.5.2010 was submitted in the Court. On 10.6.2010 cognizance was taken u/s.13(2) read with Sec. 13(1)(e) of the Prevention of Corruption Act,1988.

3. The plea of defence is denial. The accused was questioned u/s. 313 Cr.P.C and in course of answering 110 questions, the accused feigned ignorance with regard to assets of his wife Smt.Snehalata Jena and submitted that the documents filed against him are not correct and he had no disproportionate assets.
4. The defence has submitted memorandum of argument u/s.314 Cr.P.C.
5. In order to bring home charge, prosecution has examined 81 witnesses and exhibited 263 documents. On behalf of defence 18 witnesses are examined and Ext.A to Ext.V and Ext.A-1 to Ext.V-1 are marked.

6. Before advertng to appreciation of evidence, a touch and go attribution may be made to the evidence on record. With regard to bank deposit and accounts touching investment of both accused and his wife P.W.1, P.W.2, P.W.4, P.W.7, P.W.8, P.W.43, P.W.46 to P.W.49, P.W.53, P.W.61 and P.W.70 are examined who have proved the documents containing the information from their respective institutions.

With regard to income from salary, provident fund and allowances like D.A and T.A. , P.W.3, P.W.9 to P.W.12, P.W.16, P.W.19, P.W.23, P.W.29, P.W.30, P.W.34, P.W.38, P.W.62, P.W.64 and P.W.73 who are mostly the officers of the Railway are examined. It may be stated here that P.W.11 amongst others proved the pay particulars from March, 2006 to 2008 vide Ext.56 and defence through him has proved the pay particulars of accused from January, 1997 to February, 2000 and November,2004 to March, 2008 vide Ext.A and the said pay particulars prepared in a computerized sheet of which true copy has been attested by Assistant Personal Officer. This witness P.W.11 has also stated about some relevant fact with regard to T.A and daily allowance. The evidence of P.W.11 assumes importance as defence has waived its usual objection u/s. 65 (B) of the Evidence Act (secondary electronic evidence).

With regard to Insurance deposit in LIC and Mutual fund by accused and his wife P.W.18, P.W.63 and P.W.76 from LIC are examined, while P.W.5, P.W.32, P.W.42, P.W.57 and P.W.58 from other offices are examined. P.W.13, P.W.15, P.W.17 and P.W.25 are examined to prove the sale of micro woven, washing machine, pump set and watch to accused. With regard to income from nursery and purchase of garments and wood by the wife of the accused, P.W.24, P.W.33, P.W.37 and P.W.40 are examined. P.W.6, P.W.21 and P.W.35 are examined to prove the landed property of the accused and his wife while P.W.45 the Tahasildar proved the ROR in the name of the wife of the accused. P.W.52 is the Vendor of accused's landed property while P.W.41 and P.W.60 are Municipality Tax Collectors. P.W.74 and P.W.75 have assessed the constructions standing over the land of the accused and his wife. P.W.36 is an employee of State Housing Board with whom accused had deposited amount to get a house but took refund of money for being not allotted. P.W.20 is examined to show payment of telephone charges. P.W.22 and P.W.39 were the employees of Passport office to prove the deposit of amount to obtain passports for the family of the accused. Similarly P.W.69 is examined to prove the Air ticket for travelling of the accused and his family. P.W.26, P.W.28 and P.W.31 are

examined to prove the payment for the study expense of the children of the accused in the School. P.W.27 has proved the payment towards electric dues. P.W.59 has valued the gold ornaments of the accused vide Ext.237. P.W.50 is an employee of Orissa State Seeds Corporation to prove that the wife of accused had purchased seeds. P.W.53 and P.W.54 have proved the agricultural income of the accused and his wife. With regard to income tax return P.W.51, P.W. 65 and P.W.71 are examined to prove Ext.225 to Ext.230 and Ext.K to Ext.W. The sanction order Ext.259 is proved by P.W. 66, P.W.72 and P.W.81. P.W.15, P.W.56, P.W.67 and P.W.68 are witnesses to the search and inventory while P.W. 79, P.W.80 and P.W.81 are Investigating Officers.

Accused is examined as D.W.18 whose wife is D.W.17. D.W.16 is the father in-law of the accused while D.W.2 is the brother of father in-law of the accused. D.W.1 and D.W.15 are the vendors who have sold their land to the wife of the accused. They have stated that they have paid the stamp duty as well as registration fees. D.W.3 is the Bank Manager of the ICICI Bank who proved the cost of gold sold to wife of the accused on 30.10.2005. D.W.4 is the officer of Urban Co-Operative Bank, Cuttack who proved the fixed deposit by the wife of the accused.

D.W.12, D.W.13 and D.W.14 are the bank officials to prove the investment by the wife of the accused. D.W.5 and D.W.7 have proved the salary of accused of pre-check period. D.W.6 and D.W.8 are the Railway Officers. D.W.11 has proved the withdrawal of Provident Fund by the accused. D.W.9 and D.W.10 have proved the purchase of dining set and V.C.D player from the accused.

7. The points for determination are:-
- i. Whether the accused is a public servant?
 - ii. What were the known source of income of accused during the check period i.e. from 1.1.98 to 31.3.2008?
 - iii. What is the nature and extent of pecuniary resources or property found in the possession of accused at the end of check period i.e. 31.3.2008?
 - iv. Whether the resources or property found in possession of the accused on 31.3.2008 was disproportionate to the known source of the accused?
 - v. Whether this prosecution against the accused is validly launched?

8. **ANSWER TO POINT NO.I :**
 (i)Whether the accused is a public servant.

Accused as D.W.18 has admitted that after qualifying engineering service, he joined as Probationer at Indian Railway Institute of Civil Engineering, Pune on 22.1.1990 and continued thereafter in different posts in different places as public servant. Prosecution has chosen the period from 1.1.98 to 31.3.2008 as

check period having regard to the acquisitive activities of the accused as a public servant and it is not shown that such time schedule is unreasonable. Appreciably the defence has not questioned the status of accused as a public servant relevant for this case and it is proved to the hilt.

9. **ANSWER TO POINT NO.II.**
(ii) What were the known source of income of accused during the check period i.e. from 1.1.1998 to 31.3.2008.

Prosecution has considered the income and expenditure of Smt. Snehalata Jena, the wife of the accused on the basis that accused has amassed the property making investment in the name of his wife. At the outset, defence has questioned such consideration urging that prosecution has failed to prove that the transaction in the name of the wife was benami. Learned defence counsel relying upon the decision reported in **AIR 1977 Supreme Court Page 796 Krishna Nand Agnihotri -v- State of M.P.** has contended 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. In this regard the evidence of

wife of the accused D.W.17 may first be glanced through. She has admitted that she married to accused in the year 1992 and became Income-Tax payee since 1998 and was residing in her marital home. She has stated that she purchased agricultural land measuring Ac. 09.040 decimals on 9.6.2000 for consideration of Rs.6,23,550/- and on that day she had received Rs.2,20,000/- from her father and on the next day she returned the same. She has also stated that she had purchased another land at Nayapalli vide Plot No.N-3-374 for Rs.7,00,000/- on 8.3.2004 out of her own income. The father of D.W.17 Snehalata Jena is examined as D.W.16 and has stated that on 9.6.2000 he had paid Rs.2,20,000/- to his daughter for purchase of a piece of land which she returned on the next day. P.W.45 Tahasildar has proved the certified copy of R.O.R vide Ext.213 and Ext.214 in respect of the land in Mouza- Rencha Sasan. It is found that vide Ext.213 the lands measuring Ac.06.130 decimals stand in the name of Snehalata Jena father (not husband) Pradeepta Kumar Jena. The Income-tax return filed for the assessment year 1999-2000 shows that Smt.Jena had total income of Rs.52,500/-. Similarly the return for the year 2000-2001 shows the income of Smt. Jena to be Rs.46,220/-. The Income-Tax return for the year 2001-2002 vide Ext.N shows that Smt. Jena had total

income of Rs.61,916/- and statement separately filed discloses that she had purchased a land measuring Ac.09.046 decimals on 9.6.2000 paying Rs.6,23,550/- and the consideration amount was arranged from five sources including Rs.1,75,600/- from her husband. But nowhere it is stated that a sum of Rs.2,00,000/- was taken from her father Srinivas Patra. Thus, the evidence adduced on behalf of the defence i.e. Ext.N and evidence of D.W.16 and D.W.17 run contrary to each other. Further, it is not understood as to why a sum of Rs.2,20,000/- taken on 9.6.2000 was returned on next day to father and from which source it was arranged. For the above inconsistency striking at the root of arranging consideration for purchase of land at RENCH, I am of the considered view that the property purchased in the name of wife belongs to accused. When the purchaser of land herself contradicts the source of consideration amount, the burden of Benami is found to have been discharged. Added to it, under Section 3 of the Benami Transactions (Prohibition) Act, 1988, the purchase of property by any person in the name of his wife or unmarried daughter shall be presumed, unless the contrary is proved, to be the property purchased for the benefit of wife or the unmarried daughter. Resultant upon the scrutiny of the evidence relating to the landed property standing in the name of

the wife of the accused in the touch stone of law of benami, it is proved that the accused P.K.Jena who was staying with his wife Snehalata Jena throughout, has acquired property investing his income. Because of this, the income of Snehalata Jena, wife of the accused is to be considered along with the accused for the purpose of calculating the disproportionate assets.

10. **PRECHECK PERIOD ASSETS.**

In order to know the likely savings of accused during check period, it is necessary to know first the assets in possession of accused and his wife prior to the commencement of the check period i.e. 1.1.1998. P.W.4 the Branch Manager, SBI , Link Road Branch, Cuttack has proved Ext.18, the statement of account, to show that Pradeepta Kumar Jena, accused had **Rs.58,238/-** by 21.4.1997 in his P.P.F account No. 10603275398 maintained in the SBI Link Road Branch Cuttack. P.W.42 and P.W.58 CARVY Computer Share Pvt. Ltd. have proved Ext.203 to state that accused had UTI U-lip share opened on 29.12.1995 vide membership No.950281005857 investing initially Rs.4000/- and had paid Rs.56,000/- in fourteen installments. Though this document Ext.203 has been objected for want of certificate u/s. 65(B) of the Evidence Act, I am unable to accept such objection on the ground that the very

document Ext.203 is a letter showing the U-lip investment in the name of the accused. This being a original letter and proved by P.W.58, I am unable to accept the objection raised by learned defence counsel who had relied upon the decision reported in **AIR 2015 Supreme Court Page-180 Anvar P.V. -v- P.K. Basheer and others** where it has been held that:

“An electronic record by way of secondary evidence therefore shall not be admitted in evidence unless the requirements u/s.65(B) are satisfied”.

In the written argument page-26 the defence has not disputed the investment of accused in this UTI U-lip during pre-check period to the tune of **Rs.13,535/-** . P.W.53 Chief Manager, SBI Talcher, has proved Ext.231 to show that accused has Rs.182.23 paisa (rounded off **Rs.182/-**) in his balance by 8.11.1997. This is not disputed. Objection has been raised to the effect that no certificate u/s.2 (A) (b) of the Bankers Books Evidence Act, 1981 is given. On scrutiny I find that Ext.231 is a letter enclosed with the statement of account for which certificate has been given in separate sheet under Bankers Books Evidence Act. Perhaps keeping the above fact in view though objection was raised at the time of recording of evidence, in the written argument the same has been waived. But the fact remains that the objection is not tenable for availability of the

certificate under Bankers Books Evidence Act and **Rs.182/-** is to be added as an asset of pre-check period. The further assets found with regard to gold ornaments as per inventory memo dated 2.4.2008 were estimated to be of **Rs.33,750/-** . In this regard the evidence of P.W.59 who has proved gold valuation report Ext.237 is to be accepted. Consequent upon above scrutiny the prosecution is found to have proved the assets of accused for the pre-check period as per following particulars.

1	Investment in PPF	Rs.58238/-
2	Investment under UTI U-lip	Rs.13535/-
3	Balance available in SBI Talcher Branch	Rs.182/-
4	Gold found during inventory on 2.4.2008.	Rs.33750/-
	Total assets for the pre-check period.	Rs.1,05,705/-

11. Learned defence counsel in course of argument relying upon written submission and referring to the evidence, has vehemently submitted that as accused was serving and had income from salary as well as from agricultural source, the said income should be added as assets of the pre-check period. It is also argued that income of the wife of the accused from tuition and agricultural source of pre-check period i.e. prior to 1.1.1998 should be considered to ascertain the assets of accused. The choice of check period lies with the prosecution and only to ascertain pecuniary resources disproportionate to the assets of a

public servant, the pre-check period assets are only to be considered. The said assets are nothing but the available pecuniary resources on the date of commencement of the check period. Unlike check period, the income and expenditure of accused are not to be calculated to find the likely savings. For the above reason, I do not think there is any substance in this contention of the learned defence counsel that the salary and income of accused and his wife of pre-check period are to be calculated to find the assets at the beginning of the check period. If the contention of the learned defence counsel in this regard is to be accepted, the choice of check period would be put into peril.

12. **INCOME DURING CHECK PERIOD.**

The result of above finding for pre-check period drives me to calculate the income of the accused and his wife during the check period i.e. from 1.1.98 to 31.3.2008.

P.W.11 Divisional Personal Officer of East Coast Railway has proved the pay particulars of the accused vide Ext.54 for the period from June, 97 to February, 2000 and from November 2004 to February 2006. He has also proved the pay particulars vide Ext.56 for the period from March,2006 to February,2008 and has admitted that nothing was withdrawn from provident

fund during the check period. The accused has also proved the same vide Ext.A. This witness has admitted that drawal of arrear amounting Rs.31,199/- and Rs.6098/- in January , 1998 has not been mentioned in Ext.54. So also Rs.9773/- in May,1998. On re-examination this witness has proved the pay particulars of accused from November 2004 to March,2008 vide Ext.10/3. P.W.11 vide Ext.54, P.W.73 vide Ext.74, P.W.38 vide Ext.191 and Ext.192 have proved the pay particulars of accused during the relevant check period. P.W.38 has also proved the provident fund statement vide Ext.193. The pay particular submitted is challenged on the ground that the computer generated statement is not certified as required u/s. 65(B) of the Evidence Act. In the written argument submitted by the defence no such objection is raised. Rather vide page-14 of the written argument, the said statement has been accepted. Ext.54 is a copy of pay particulars from June, 1997 to February, 2000. P.W.38, P.W.11, P.W.16 and P.W.73 have categorically stated that during the period from Marhc,2000 to October 2004 accused received **Rs..9,25,022/**. P.W.16 has stated that vide Ext.75 the accused has withdrawn **Rs.1,43,000/-** from his G.P.F on 14.8.2001. The pay particulars for the period from November 2004 to March, 2008, proved by P.W.11, shows that accused had received

Rs.10,24,344/-. So, considering all the documents as well as the evidence in the light of cross- examination made by Defence, the prosecution is found to have proved the income of accused from salary and the calculation sheet given by the defence in the written argument is correct to the extent stated below.

1	Salary from January 98 to February 2000	Rs.325352/-
2	Salary from March, 2000 to October,2004	Rs.925022/-
3	Salary from November,2004 to March,2008	Rs.1024344/-
4	Total Salary	Rs.2274718/-
5	1/3rd deduction Both defence and prosecution made 1/3rd deduction towards domestic expenses.	Rs.758239/-
6	Balance after 1/3 rd deduction (4)-(5)	Rs.1516479/-
7	GPF withdrawn	Rs.143000/-
8	Total income from salary of the accused.(6)+(7)	Rs.1659479/-

13. Learned defence counsel argued that the amount received to the tune of Rs.1,51,932/- from January, 1998 to March,2008 being the daily allowance be added to the income of the accused. It is candidly admitted that amount towards Travelling Allowance (T.A.) is not permissible for addition to the income of the accused. But daily allowance though admittedly drawn while accused was in the outside duty under the head of T.A is not to be considered as Travelling allowance. In order to support his contention the learned defence counsel has referred to the evidence of P.W.3, P.W.11, P.W.19 and P.W.73. It is a fact

that P.W.73 has admitted that for want of separate column to mention daily allowance drawn by the accused, the same is drawn under the heading T.A in the pay bill. P.W.3 has stated that guest house facility is available for the Railway officers during tour. P.W.19 has proved Ext.91 to show that accused was paid daily allowance under the heading T.A. On scrutiny of Ext.91, it is found that Rs.11,475/- has been shown under the head travelling allowance in pay particular sheet. Considering the evidence and documents to the effect that daily allowance was drawn under the head T.A and as per law Travelling allowance is not to be included under income from salary, I am to hold that the daily allowance received by accused is to receive the same status as travelling allowance and will not be considered as income from the salary. The result of above discussion is that the **salary income** of the accused Pradeepta Kumar Jena during check period is **Rs.16, 59,479/-**.

14. With regard to other source income of accused, P.W.54 has stated that during period from 1999 to 2008 the accused had income of Rs.3,95,688/- from agricultural source. But defence urged the same to be Rs.3,98,328/-. I accept the defence contention and treat **Rs.3,98,328/-** as the **agricultural income** of the accused from 1999 to 2008. The

contention of the defence that on pro rata basis the agricultural income of the accused from 1.1.98 to 31.3.2008 be calculated is not acceptable for want of evidence in this regard. No presumptive calculation is permissible to ascertain income.

15. The income of accused, besides salary and agricultural, also flows from **interest and dividend**. In regard to this item, the evidence of witness and documents proved by the officials of the Banks and Insurance offices coupled with the written submission of defence not disputing the same are considered.

The tabulation is made under this head in following manner.

1	Central Bank of India.(vide Ext.3 objection raised regarding admissibility but waived)	Rs.4514.00
2	IDBI Bank (Vide Ext.8 accrued on deposit of Rs.30,000/-) (Vide Ext. 9 towards dividend on investment of Rs.30,000/-)	Rs.5016.00 Rs.11878.00
	Total (Rs.5016/-+ Rs.11878/-)	Rs.16894.00
3	PPF Account of SBI Link Road Branch, Cuttack (P.W.4 Ext.18 and Ext.19 Cross-examination para-4)	Rs.243750.85
4	Axis Bank (P.W.7 Ext.34)	Rs.64845.00
5	UTI U-lip during check period. (P.W.42 Ext.203 objection waived)	Rs.1672.44
6	ICICI Safety Bond (Rs.5817/- + Rs.6399/-) (P.W.81Para-24 Ext.290 vide Folio No.50425 and 5626438)	Rs.12216/-
7	Urban Co-Operative Bank (P.W.49) (Ext.219 to Ext.221)	Rs.26945/-
8	Canara Bank Interest accrued (D.W.12 Ext.N-1 (Rs.10,128/- by P.K.Jena as on 21.8.2001 and Rs.9251/- in favour of Snehalata Jena on 10.6.2000)	Rs.19359/-
9	TDS refund (P.W.71 Ext.225, Ext.230)	Rs.3516/-
	Total income from interest and dividend	Rs.393712/-

Learned defence counsel relying upon D.W.2, cousin brother of accused P.K.Jena, argued that a **gift of Rs.20090/-** given to Rupa @ Sibangi Jena by way of transfer to the account of the accused be taken into consideration as income of the accused. On scrutiny of the evidence of D.W.2 and Ext.C-1, I find that a sum of Rs.20090/- has been credited to the account of the accused on 8.12.2000 vide statement of account Ext.3. The contention of the prosecution disputing the identity of Rupa to be the daughter of accused namely Sibani Jena is not acceptable in view of the evidence in abundance in this regard. A gift of this nature to the father's account is to be added to the income of accused and thereby the total income would be **Rs.393712/-+ 20090/- =Rs.4,13,802/-**.

16. Added to above income of the accused which comes to **Rs.24,71,609/-**, (salary Rs.1659479/- + agricultural Rs.398328/- + Interest & dividend Rs.393712/- + gift 20090/-) prosecution has added Rs.28,71,078/- as agricultural income of Snehalata Jena wife of the accused. In this regard prosecution has examined P.W.65, the Income Tax Officer who proved Income Tax return for Snehalata Jena vide Ext.N to Ext. V. The same has been relied upon by prosecution vide Ext.250 to Ext.255 and Ext.257. The objection of the defence that

certificate is not given u/s.65(B) of the Evidence Act is not acceptable, when defence has itself relied upon the same in course of cross-examination. It is admitted by the said witness that he has not scrutinized the expenditure shown in the returns. On consideration of returns vide Ext.N to Ext.V, I am to accept the contention of the defence that **agricultural income** during the check period of **Snehalata Jena** was **Rs.28,91,078/-**.

17. Learned defence counsel argued that the income of Smt.Snehalata Jena, the wife of the accused from Tuition and Diary firm during the check period should be added to the income of the accused. In this regard he relied upon the Income-Tax return filed vide Ext.L to Ext.V. On going through the evidence of Snehalata Jena, D.W.17, I do not find any positive assertion about the specific amount in this regard. On cross-examination she has only admitted that she was maintaining a register regarding fees collected from the students at the time of tuition. No such register is proved. Further I verified the Income-Tax returns Ext. L,M, N, P and Q and do not find any specific mention of income out of tuition. So the amount claimed to be the income from tuition cannot be added.

Similarly, the professional income of Smt.Snehalata Jena from the Diary firm is sought to be included. But I do not

find any cogent and acceptable evidence from the side of the defence for this item particularly when the Income-Tax return is not scrutinized in this regard by the Income Tax Officer P.W.65.

With regard to **income-tax refund** amounting to **Rs.16,654/-** during the period from 2001 to 2008 the statement of the I.O that an Income Tax officer has stated before him, is relied upon and taking liberal view I feel it proper to add the same amount. On calculation, the income of Snehalata Jena to the extent of **Rs.28,91,078/- + Rs.16,654/- =Rs.29,07,732/-** is to be added to the income of the accused. Consequently the total **income of accused and his wife** during check period from 1.1.1998 to 31.3.2008 is **Rs. 24,71,609/- + Rs.29,07,732/- =Rs.53,79,341/-**.

18. **EXPENDITURE DURING CHECK PERIOD.**

Time has come to go for consideration of the expenditure which must have been incurred during check period. The salary income of the accused was found after deducting 1/3rd from the salary of the accused towards domestic expenses. Both prosecution and defence have exercised such 1/3rd deduction towards domestic expenses. Because of this the other expenditure are to be ascertained to find out the likely savings. The prosecution has given such expenses to the tune of

Rs.1,98,542/- under ten headings and defence has questioned the same which are dealt with as follows:-

(a) With regard to educational expenses of two daughters, prosecution has challenged Ext.137, Ext.138, Ext.140, Ext.142 and Ext.143 as inadmissible being the photocopies. But on closure scrutiny of the same I find that the Principal of D.A.V. Public School has authenticated the same putting his seal and signature and it was supplied to the C.B.I. Inspector during investigation. Hence, the defence contention that P.W.26 has admitted in cross- examination para-4 that Rs.22,575/- was collected on 13.5.2008 is acceptable. Ext.140 coupled with Ext.D prove that a sum of Rs.9396/- was collected from Sibangi Jena towards tuition fee on 21.4.2008 (bank seal dated 25.4.2008). Defence has also disputed the payment of Rs.5,000/- as against Rs.5140/- under Ext.142. With regard to Mission School expenses in respect of Sibangi, P.W.28 has admitted that Rs.7920/- was paid towards conveyance, books, stationary and uniform. In cross-examination he has stated that it is not a fact that Sibangi Jena has paid Rs.7920/-. Relying upon that, the defence has disputed the payment of above amount towards educational expenses. But I find that despite incisive cross-examination that girl student is not exempted from paying

tuition fee, the witness has withstood the factum of payment of Rs.7920/-. The statement in the cross-examination stated above indicates that money was paid towards expenses but not by the student herself.

Similarly, with regard to educational expenses in St. Xavier High School, the defence has objected the admissibility of Ext.157. On scrutiny I find that Ext.157 is the letter addressed by the Rector Manager enclosing a computerized typed sheet showing fee structure of Miss. Nupura Jena from 2005 to 2008. The said computerized typed sheet is signed by P.W.31 vide Ext.157/3. He has stated that he prepared fee structure sheet verifying the fee receipt book. P.W.31 is the office Assistant of the St. Xavier High School. This exhibit is objected on the ground that the copy supplied to accused had not contained the signature of the witness. In the absence of any evidence that the daughter of accused was not reading in St. Xavier High School and that no fee was paid in that school for the study of Nupur Jena, I am to accept the evidence of P.W.31 to the extent that a sum of Rs.14,980/- was received by the school towards study of Noopur and Sibangi Jena in the St. Xavier High School.

Learned defence counsel argued that once the 1/3rd of the salary of the accused was set apart towards household expenses as stated by P.W.81, I.O. , no further amount should be debited towards study expenses of the children. On careful reading of the evidence of P.W.81 (I.O.) , I do not find that educational expenses of children was included in the 1/3rd expenses deducted from salary. D.W.16 the father in-law of the accused has stated in his evidence that he had been paying Rs.1000/- per month to Noopur Jena towards study expenses with effect from 3.4.2002. Not a scrap of paper is produced in support of this contention for which I am unable to accept the above assertion. Regards being had to the above analysis, I am of the considered opinion that a sum of Rs.22,575/- + Rs.9396/- collected after check period and a sum of Rs.1000/- counted towards excess addition under Ext.140 and Ext.142 (total amounting to Rs.32971/-) are to be deducted from Rs.98,538/-. (The expenses shown by prosecution under this head). Accordingly a sum of (Rs.98538 (-) Rs.32971) **Rs.65567/-** is to be considered towards expenses under head **educational expenses** of the children.

(b) Prosecution through P.W.47 Manager, SBI Nimapara Branch has tried to prove payment of Rs.14,786/- towards

interest on the agricultural loan taken by Smt.Snehalata Jena, the wife of the accused. He has proved Ext.217, a letter addressed by the Manager to C.B.I. The statement of account is a computer generated sheet which bears no certificate as required u/s. 65(B) of the Indian Evidence Act and u/s. 2 (A) of the Bankers Books Evidence Act. Resultantly, the same is inadmissible.

(c) With regard to expenses towards passport the defence objected the admissibility of Ext.125 to Ext.130 the computer generated documents having no certificate u/s.65 (B) of the Evidence Act. Accepting such objection and holding the documents inadmissible, the expenses under this head of **passport** is found **Rs.40/-** only.

(d) With regard to expenses for telephone bills amounting to Rs.51649/- proved through P.W.20 and Ext.99 to Ext.101, learned defence counsel argued that such payment having already been shown in the income tax returns, the same should not be again calculated towards expenditure. It is already opined that income-tax return is not a scrutinized document to ascertain the truth of payment made there under. P.W.20 who was a Sub-Divisional Engineer has stated about payment made vide Ext.99 to Ext.101. In the cross-examination he has admitted that one

mobile phone was allotted to the accused and a sum of Rs.653/- and Rs.872/- has been shown twice. He has admitted that no document has been filed for payment of Rs.14,146/- by Snehalata and also Rs.5720/- by P.K.Jena. So deducting the disputed amount i.e. Rs.14146/- + Rs.5720/- + Rs.872/- and Rs.653/- = Rs.21391/- from Rs.51649/-, a sum of **Rs.30258/-** is to be considered towards expenses under head **telephone bills**.

(e) Under the item towards payment for Air tickets, the prosecution relies upon the evidence of P.W.69 and Ext.265. P.W.69 is a travelling agent who has received Rs.75,000/- i.e. Rs.10,000/- on 29.11.2007 and Rs.65,000/- on 27.12.2007 towards tickets given to accused and his family members for travelling Malasia and Singapur. When Travelling agent has himself stated to have received the cheque amounting to Rs.75,000/- and there is no evidence that accused and his family members had not travelled Singapur and Malasia , I am to accept that accused had spent Rs.75,000/- towards purchase of Air ticket during check period. The submission of the defence with regard to payment after check period is no way related to this journey of the year 2007. So under this head i.e. purchase of **Air tickets** a sum of **Rs.75,000/-** is to be counted.

(f) Towards expenses for payment of electricity bill from 2006 to 2008 prosecution has relied upon the evidence of P.W.27 and Ext.144 to Ext.144/3 for Rs.2472/-. It is admitted by P.W.27 that the statement towards expense is computer generated one without certificate as required u/s.65(B) of the Evidence Act. Accepting the defence objection in this regard, the amount towards payment of electricity bill from 2006 to 2008 is to be treated nil.

(g) Towards fee for obtaining nursery license amounting to Rs.1000/- prosecution has relied upon the evidence of P.W.24 and Ext.132. I have carefully gone through the Ext.132 and find no such payment receipt like Indian Postal Order or challan and there is no authentication certificate available in the photocopies. Consequently the expenses under this head of nursery license fee is to be treated as nil for want of proof.

(h) Next items in this regards are the payment towards Rungta Irrigation Project and the payment towards credit card charges amounting to Rs.56,000/- and Rs.435/- respectively. Prosecution has relied upon the evidence of P.W.46 and Ext.216. P.W.46 is the Branch Manager of ICICI Bank who has proved the statement of account vide Ext.216. The admission of this document was objected for want of certificate u/s.2 (A) of

Bankers Book Evidence Act. I carefully go through that document which is a computer generated copy of ICICI Bank dated 6.11.2009, but there is no certificate as required u/s. 65(B) of the Evidence Act available. Resultantly, the expenses alleged towards Rungta Irrigation Project and Credit card charges are to be treated nil.

Upon consideration of the objection raised by the defence and acceptance of proof from the side of prosecution, the following amount as tabulated is considered towards expenses during check period.

(a)	Educational expenses of the children	Rs.65567/-
(c)	Passport charges.	Rs.40/-
(d)	Telephone charges.	Rs.30258/-
(e)	Air Ticket charges.	Rs.75,000/-
	Total expenditure	Rs.1,70,865/-

AGGREGATE SUM AT THE END OF CHECK PERIOD.

This would pave the way to show that after deductions the total expenditure incurred by the accused during check period from the total income received by him, on aggregate sum of (Rs.5379341 – Rs.170865) = **Rs.5208476/-** was available with accused and it is with reference to this amount, disproportionate asset or property is to be determined.

19. **ANSWER TO POINT NO.III :**

(iii) What is the nature and extent of pecuniary resources or property found in the possession of accused at the end of check period i.e. 31.3.2008.

ASSETS DURING CHECK PERIOD.**(A) LAND AND STRUCTURE:**

- (i) P.W.6 Sub-Registrar has proved Ext.26 , Ext.27, Ext.28 and Ext.29 in proof of purchase of landed property in village Rencha Sasan. The consideration amount under these sale deeds are Rs.2,19,500/- + Rs. 1,16,000/- + Rs.52,650/- + Rs.2,35,400/- =**Rs.6,23,550/-**. It may be stated here that the registration fee and stamps required for registration of these deeds are not proved by prosecution to have been paid by the purchaser Smt. Snehalata Jena.
- (ii) P.W.21 has proved the sale deed dated 8.3.2004 in favour of Snehalata Jena in respect of Ac.0.090 decimals of land in village Jayadev Vihar on payment of consideration of **Rs.7,00,000/-** vide Ext.119. This witness P.W.21 has admitted that vendor Sibasish Satpathy did pay the stamp duty and registration fee.
- (iii) P.W.52 is the vendor of sale deed Ext.124 in respect of land of mouza-Basua Ghai purchased by accused on payment of **Rs.1,45,000/-** on 17.8.2001. This vendor has admitted to have paid the registration fee and stamp duty.
- (iv) P.W.74 and P.W.75 are the Engineers of C.P.W.D who have valued the building and structure standing over the land of accused and his wife. P.W.74 who made valuation of structure

has proved the valuation memorandum and report from Ext.272 to Ext.278. As per their assessment vide Ext.275/1, the valuation of house constructed in the firm house of Smt. Snehalata Jena is **Rs.7,73,845/-**.

(v) Similarly, the development by extension over the land at Nayapalli, Jayadev Vihar is valued to be **Rs.61,896/-** vide Ext.277.

(vi) The valuation of boundary wall constructed in the land at Basua Ghai is proved to be **Rs.49,980/-**vide Ext.278. Thus, the assets found under item **land and structure** at the end of check period is stated in the following manner:-

(i)	Purchase of land in the name of Snehalata Jena under Ext.26 to Ext.29.	Rs.61896.00
(ii)	Purchase of land in the name of Snehalata Jena under Ext.119	Rs.7,00,000
(iii)	Purchase of land in the name of accused Pradeepta Jena under Ext.124.	Rs.1,45,000/-
(iv)	Valuation of structure constructed over the land at Jayadev Vihar vide Ext.275/1.	Rs.7,73,845/-
(v)	Valuation of house constructed in the firm house of Snehalata Jena vide Ext.277	Rs.61,896/-
(vi)	Valuation of boundary wall constructed in the land at Basua Ghai vide Ext.278	Rs.49,980/-
	Total cost of lands.	Rs.23,54,271/-

(B) PPF, FIXED DEPOSIT AND MUTUAL FUNDS

(i) P.W.4 Branch Manager, S.B.I. proved Ext.19 to show that accused had balance of **Rs.5,09,750.85 (rounded off Rs.5,09,751.00)** in the PPF account of accused. He also proved

Rs.3, 907.00 in the PPF account of Snehalata Jena, the wife of the accused vide Ext.13. P.W.2 officer of IDBI, Bank has proved Ext.8 to show that accused had invested **Rs.30,000/-** on 29.1.2005. P.W.8 Chief Manager of SBI Nalco Corporate Office Branch has proved that Smt. Snehalata Jena had deposited **Rs.3,00,000/-** as Special Term deposit on 22.3.2007. P.W.48 through Ext.218 corroborated by P.W.57 has proved that accused had invested **Rs.1,70,000/-** in the ICICI Prudential Mutual Fund plan on 7.6.2005 paying 34 installments at the rate of Rs.5000/- each. P.W.57 an officer of Computer Age Management Services Pvt. Ltd. (CAMS) has stated that the wife of accused had invested a sum of **Rs.1,00,000/-** in Birla Sun life Mutual Fund for the period from 1.6.2005 to 31.3.2008 against Folio No.1012574983 vide Ext.235. It may be stated here that the statement of account is supported by a certificate u/s. 2(A) of Bankers Book Evidence Act signed by System Administrator and Branch Manager. P.W.18 the Manager Administration LIC of India has proved the LIC policies vide Ext.81 to Ext.89. P.W.76 another Manager of LIC of India has proved Ext.281 to 284 and has stated that the total investment up to 31.3.2008 by Sri P.K.Jena and Snehalata Jena was **Rs.14,55,160/-**. P.W.5 Customer Service Manager, ICICI

Prudential Life Insurance Company, Bhubaneswar has proved four ICICI Prudential Insurance Policies in favour of accused, his wife and his two daughters vide Ext.21, Ext.22, Ext.23 and Ext.24. He has stated that a sum of Rs.1,50,000/- each as premium was paid towards policy of Snehalata Jena, Sibangi Jena and Noopur Jena while a sum of Rs.3,20,000/- was paid towards premium for the policy of accused during the period from 1.1.98 to 31.3.2008. Thus, the amount in this regard is found to be **Rs.7,70,000/-** towards Insurance Policy with ICICI Prudential Life Insurance.

(ii) P.W.58 has proved investment of **Rs.56,000/-** to join in the plan UTI Ulip on 29.12.95 vide membership No.950281005857.

(iii) Learned defence counsel relying upon the evidence of D.W.3 Deputy Branch Manager, ICICI Bank has submitted that the gold jewellery found in the bank locker cost Rs.39,296/- as certified by him under Ext.D/1 and for that the valuation made by the I.O. to the extent of Rs.60,000/- is incorrect. In view of evidence of D.W.3 the value of gold jewellery is accepted to be **Rs.39,296/-**.

(iv) Ext.261 is the Inventory Memo dated 2.4.2008 and it is proved by search officer P.W. 77. The search was made in the residential quarter of accused at Jatani. Similarly Ext.266 is the

search memo dated 3.4.2008 in respect of the quarter under which gold ornaments were seized. On careful scrutiny of the inventory memo dated 2.4.2000, I find that the search officer has put the approximate valuation like sarees costing about Rs.50,000/-, brief case Rs.5,000/- and others such as one wooden bed cot, Sony colour T.V., Air Conditioner, Samsung mobile phone. Similarly, search officer has valued the dinning set, refrigerator and other articles like sofa set and music system. As the valuation has been made attributing the approximate cost by the search officer, I consider the evidence of D.Ws. D.W.9 has admitted that he had purchased one dinning set from accused for Rs.14,000/- on 27.2.2005. D.W.10 has stated that in May,2002 he purchased a Thompson V.C.D player for Rs.7,000/-, one cooker for Rs.3,000/- and one Music system for Rs.5,000/- from Snehalata Jena and in the year 2006 he had purchased one Calvinator refrigerator for Rs.9,000/-. He has also stated that he had purchased one Videocon colour T.V for Rs.9800/- from Snehalata Jena. With this evidence the defence argued that when the house hold articles were sold and new articles were purchased the valuation of house hold articles found during search to the extent Rs.3,70,570/- is not correct. Having considered the copious evidence adduced by both parties

and lending a liberal view, I find it reasonable to reduce the valuation of house hold articles to **Rs.2,00,000/-**. The above amount shall be added to the valuation of gold ornaments found Rs.39,296/-. Accordingly, the household articles including gold jewellery found during search is estimated to be (Rs.2,00,000/- + Rs.39,296/-) = **Rs.2,39,296/-**.

The result of above analysis establishes the properties found at the end of check period in the following manner:-

1	Landed property purchased and construction made by accused and his wife	Rs.23,54, 271/-
2	PPF account in the name of accused in the SBI Link Road Branch.	Rs.509751.00
3.	PPF account in the name of Snehalata Jena in the SBI Link Road, Branch.	Rs.3,907.00
4	Fixed deposit vide cheque No.669601 dt.22.3.07 in STDR A/c No. 30148362991 with SBI Nalco Corp. Office Branch BBSR in the name of Snehalata Jena.	Rs.3,00,000/-
5	Investment made with ICICI Prudential Tax Plan Growth Scheme on 7.6.05 in the name of P.K.Jena.	Rs.1,70,000/-
6	Investment made with ICICI Tax Saving Bond in the name of P.K.Jena.	Rs.20,000/-
7	Investment made during the period 2005 to 2008 in the name of Smt. Snehalata Jena with Birla Sun Life M.Fund in the name of Snehalata Jena.	Rs.1,00,000/-
8	Investment made on 31.10.02 with 6 IDBI Flexible bonds in the name of P.K.Jena.	Rs.30,000/-
9	Premium paid towards four LIC with ICICI Prudential Life Insurance vide Policy No. 00979631, 01665908, 024945347 and 02654509 in the name of P.K.Jena, his wife and two daughters.	Rs.7,70,000/-
10	Premium including late fees paid towards 13 LIC by Shri P.K.Jena	Rs.14,55,160/-
11	Investment with UTI Ulip membership No. 950281005857 in the name of P.K.Jena.	Rs.56,000/-
12	Value of house hold articles found during search including gold jewelers dated 2.4.2008 and 3.4.2008	Rs.2,39,296/-
	Total assets	Rs.6008385/-

(C) As per prosecution the following amount is found to be balance outstanding in various savings bank accounts of accused and his wife Snehalata Jena.

1	Balance in SBI account no.2008 opened on 24.3.2000 with Central Bank of India, Rail Vihar, Bhubaneswar in the name of Sri P.K.Jena.	Rs.4429/-
2	Balance in SB Account No.0061011008601 with ICICI Bank, Satyanagar, Bhubaneswar in the name of Smt. Snehalata Jena.	Rs.41,702/-
3	Balance in S.B. Account No.3869 with Nilanchal Gramya Bank, RENCH Khelar Branch, Puri in the name of Smt. Snehalata Jena.	Rs.989/-.
4	Balance in SB A/c No. 624010100105699 with Axis Bank, Satyanagar, Bhubaneswar in the name of Shri P.K.Jena	Rs.203599/-
5	Balance in S.B. A/c No. 30002270711 with SBI Nalco Nagar Bhubaneswar in the name of Smt Snehalata Jena.	Rs.96232/-
	Total	Rs.3,46,951/-

Learned defence counsel without specifying the discrepancies has submitted his written argument showing the said balance outstanding to be Rs.300820/-. Taking the liberal view, I feel it proper to accept the defence estimation in this regard and to record a finding that the accused had **Rs.300820/-** under the heading balance outstanding in various S.B. Account during the check period.

By adding the above amount **Rs.300820/-**, the total assets during check period in the name of accused and his wife is found to be (Rs.6008385/- + 300820/-)= **Rs.63,09,205/-** .

20. The total assets acquired by the accused and his wife at the beginning of the check period was Rs.1,05,706/- which is to be deducted from the total amount found at the end of the check period. Resultantly **Rs.6309205 - Rs.105705= Rs.6203500/-** is found to be the total assets of accused and his wife by the end of check period i.e. **31.3.2008**.

21. **ANSWER TO POINT NO.IV:-**

Whether the resources or property found in possession of the accused on 31.3.2008 was disproportionate to the known source of the accused.

(a)	Total income of the accused and his wife during the check period.	Rs.5379301.00
(b)	Total expenditure of the accused and his wife during the check period.	Rs.170865.00
(c)	Likely savings during check period (a) Income - (b) Expenditure.	Rs.5208476.00
(d)	Total assets of the accused at the end of the check period i.e. 31.3.2008	Rs.6203500.00
(e)	Disproportionate Assets of the accused during the check period. [(d)Assets - (c)Likely savings]	Rs.9,95,024.00

22. **ANSWER TO POINT NO.V:-**

Whether this prosecution against the accused is validly launched.

The point needs narration for the argument advanced by the learned defence counsel questioning not only the validity of sanction for this prosecution but also the violation of natural justice in not giving opportunity to the accused to explain disproportionate assets found against him. In support of above contention the decisions reported in **2014 Cri.L.J 930 (S.C.) C.B.I. -vrs- Ashok Kumar Agarwala** for the

earlier and **1993 Cri.L.J. 2051 Bombay N.P. Lotlikar -vrs- C.B.I.** for the later are relied upon.

The sanction order is marked Ext.259. P.W.66 was the Director Vigilance Railway Board, New Delhi. He has proved the sanction order with copy of memorandum of Govt. Of India, Department of Personal and Training vide Ext.259 and Ext.260. In cross-examination he has admitted that on receipt of letter from C.B.I. on 30.11.2009 he moved to competent authority who prepared the sanction order vide Ext.259. He has also stated that he had received factual report along with a letter from C.B.I. and forwarded the sanction order on 3.5.2010. P.W.72 the then Deputy Secretary E(O)I , Ministry of Railway Board, has proved his signature in the sanction order stating that he communicated sanction order on behalf of President of India. He has stated that Railway ministry was apprised of about the case and permission was accorded from the ministry. He has stated in the cross-examination that the then Joint Secretary, Railway Board namely Smt.B.K.Minj had sent the file to him. He could not say if the investigation was over by 30.11.2009. He has categorically stated that real application of mind was made by the then Railway Minister for according sanction in this case. The other witness in this regard is Investigating Officer P.W.81. She has categorically stated in cross-examination para-4 that after soliciting sanction from the authority on 30.11.2009, she continued with the investigation and examined P.W.64 on 7.1.2010 and P.W.71 on 30.4.2010 as well as P.W.65 on 22.2.2010 and had collected the documents Ext.247 to Ext.257. She has also admitted in

cross-examination Para-5 that C.B.I Manual 2005 to guide investigation was binding upon them.

Basing upon the above evidence learned defence counsel strenuously argued that sanction was not obtained after completion of investigation and thereby the procedure for obtaining sanction as provided in Chapter-22 of C.B.I. Manual 2005 has been flouted, particularly when the C.B.I has not forwarded its report to obtain sanction order to the Central Vigilance Commission. The prosecution has not suppressed the examination of witnesses after initiation of the process for obtaining sanction by mentioning the same in the charge sheet dated 18.5.2010. Sanction order Ext.259 is signed on 30.4.2010.

With reference to cross-examination para-4 of I.O. P.W.81 it can be said that no investigation was made after sanction order dated 30.4.2010. In this back drop on perusal of sanction order Ext.259 it is clear that authority had verified all the documents like F.I.R and investigative materials disclosing the immovable and moveable properties and the disproportionate assets as calculated in the charge sheet. There is no evidence that Central Vigilance Commission was moved for obtaining the sanction order by the C.B.I in this case. In the above circumstances the law decided in the aforesaid **Ashok Kumar Agarwalla** case may be referred to. In that decision Their Lordships have summarised the legal position in the following words:

“8. In view of the above, the legal propositions can be summarised as under:

- (a) The prosecution must send the entire relevant record to the sanctioning authority including the FIR, disclosure statements, statements of witnesses, recovery memos, draft charge sheet and all other relevant material. The record so sent should also contain the material/document. If any, which may tilt the balance in favour of the accused and on the basis of which, the competent authority may refuse sanction.
- (b) The authority itself has to do complete and conscious scrutiny of the whole record so produced by the prosecution independently applying its mind and taking into consideration all the relevant facts before grant of sanction while discharging its duty to give or withhold the sanction.
- (c) The power to grant sanction is to be exercised strictly keeping in mind the public interest and the protection available to the accused against whom the sanction is sought.
- (d) The order of sanction should make it evident that the authority had been aware of all relevant facts/ materials and had applied its mind to all the relevant material.
- (e) In every individual case, the prosecution has to establish and satisfy the court by leading evidence that the entire relevant facts had been placed before the sanctioning authority and the authority had applied its mind on the same and that the sanction had been granted in accordance with law”.

In the above decision Their Lordships have also reiterated that Court must examine the issue regarding failure of justice in the true sense or a camouflage argument relating to sanction.

In view of the above dictum, I am of the opinion that guideline to move through Central Vigilance Commission for obtaining sanction by C.B.I is not statutory requirement for which contravention, the sanction order would be declared invalid by the court. Such guide line is an indoor arrangement of which contravention may attract departmental action but in no circumstance is potential enough to vitiate a sanction order obtained

from the competent authority. It may be stated that authority issuing sanction order in this case is not argued to be incompetent otherwise.

The fact that prosecution has examined witnesses after taking initiative for sanction order does not appear prejudicial because all these three witnesses P.W.53, P.W.65 and P.W.71 have stated favorably for defence rather than the prosecution. P.W.53 a Bank Manager has stated about the balance of Rs.182.23 Paise in the account of accused during pre-check period. P.W.65 and P.W.71 are Income Tax Officers who have proved the return of Snehalata Jena, the wife of the accused and defence has banked upon the statements marking Ext.K to Ext.W. Tested in the touch stone of the above evidence , I find the sanction order Ext.259 ex facie reveals that authority has consciously scrutinised the whole record and after application of mind has granted sanction u/s.19 of the P.C.Act, 1988 which is not prejudicial to the accused. This is discernable from the recital of the sanction order and the said sanction order Ext.259 does not suffer from the vice of total non-application of mind. The contention of the defence does not hold good in this regard.

On the second point that accused was not given opportunity to account for the disproportionate assets found, the decision cited by the learned defence counsel of Hon'ble Bombay High Court in Lotlikar Case does not appear attracted to the fact and circumstance of this case. The Hon'bel Apex Court in the case of **State of Maharashtra & Ors - vs - Ishwar Piraji Kalpatri reported in 1996 AIR 722, 1996 SCC (1) 542 has stated that :-**

“The aforesaid passage leaves no manner of doubt that the opportunity which is to be afforded to the delinquent officer under Section 5(1)(e) of the Act of satisfactorily explaining about his assets and resources is before the Court when the trial commences and not at an earlier stage. The conclusion arrived at by the learned Single Judge that principles of natural justice had been violated, as no opportunity was given before the registration of the case, is clearly unwarranted and contrary to the aforesaid observations of this Court in K. Veeraswami's case (supra)”.

The above Ishwar case is relied upon subsequently by the Hon'ble Apex Court in the case of **State by Central Bureau of Investigation -v- Shri S.Bangarappa decided on 20.11.2000** where it has been held that :

“**No** doubt the prosecution has to establish that the pecuniary assets acquired by the public servant are disproportionately larger than his known sources of income and then it is for the public servant to account for such excess. The offence becomes complete on the failure of the public servant to account or explain such excess [vide M.Krishna Reddy -vrs- State Dy. Superintendent of Police, 1992)4) SCC 45, P.Nallammal and anr. vs. State, 1996 (6) SCC 559]. It does not mean that the court could not frame charge until the public servant fails to explain the excess or surplus pointed out to be the wealth or assets of the public servant concerned. This exercise can be completed only in the trial. [K.Veeraswami-v-Union of India (1991) (3) SCC 655; State of Maharashtra -vrs- Ishwar Piraji Kalpatri 1996 (1) SCC 542. In the latter decision the court held thus: The opportunity which is to be afforded to the delinquent officer under Sec. 5(1)(e) of the Act [corresponding to Sec. 13(1)(e) of 1988 Act] of satisfactorily explaining about his assets and resources is before the court when the trial commences, and not at an earlier stage”.

Resultantly both the contentions of the learned defence counsel questioning the validity of sanction as well as denial of opportunity to accused by Investigating Officer to account for disproportionate assets are found not tenable in the facts and circumstances of this case and for that

the prosecution is found to have validly launched u/s. 19 of the P.C.Act,1988.

23. An anatomical accountancy of the evidence on record is undertaken. The explanation of the defence falls short to account for the surplus surfaced as disproportionate assets. As a sequitur, the prosecution is found to have proved beyond reasonable doubt that accused was in possession of pecuniary resources or property to the tune of **Rs.995024/-** disproportionate to his known source of income by the end of check period on 31.3.2008 and thereby has committed the offence of criminal misconduct.

In the result, accused is held guilty u/s. 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988 and is convicted thereunder.

The privilege of Probation of Offenders Act is not extendable u/s.18 of the Probation of Offenders Act, 1958

Special Judge, C.B.I.-II, Bhubaneswar.

Typed to my dictation and corrected by me. The Judgment is pronounced in the open court today this the 16th October, 2015.

Special Judge, C.B.I.-II, Bhubaneswar.

HEARING ON POINT OF SENTENCE.

Heard the convict and the learned counsels for both parties. Having regards to the nature of criminal misconduct established, the doctrine of proportionality in awarding sentence would be adhered to. The minimum sentence would serve the ends of justice. The convict is sentenced to undergo rigorous imprisonment for one year and to pay fine of Rs.1,00,000/- (Rupees One Lac) in default to undergo rigorous imprisonment for three months for the offence u/s. 13(2) read with Section 13(1) (e) of the Prevention of Corruption Act, 1988.

The period undergone as UTP be set off u/s. 428 Cr.P.C.

Zimanamas be cancelled after two months of the appeal period, if no appeal is preferred against this judgment and in case of appeal, the same shall be subjected to appeal.

Special Judge, C.B.I.-II, Bhubaneswar.

Dictated and corrected by me. Sentence is pronounced in the open court today this the 16th October, 2015.

Special Judge, C.B.I.-II, Bhubaneswar.

LIST OF WITNESSES EXAMINED FOR THE PROSECUTION.

- P.W. 1. Premakanta Mishra
P.W. 2. Jagannath Hembram
P.W. 3. Mahesh Kumar Behera.
P.W. 4. Nihar Ranjan Lenka.
P.W. 5. Chirantan Patra
P.W. 6. Raghunath Nayak
P.W. 7. Premaranjan Panda
P.W. 8. BijanBihari Satpathy
P.W. 9. K.S.N.Raju
P.W. 10. Kajal Kumar Ray
P.W. 11. Bikram Kesari Panda
P.W. 12. Bijay Kumar Panda
P.W. 13. Nrusingha Ch. Choudhury
P.W. 14. Triful KumarSwain
P.W. 15. Biranchi Bansalia
P.W. 16. Purna Ch. Satpathy
P.W. 17. B.Vedanyasa Bhat
P.W. 18. Khesendra nath Pradhan
P.W. 19. Jagadish Shioram Sukhadev
P.W. 20. Shyama Nanda Mohanty
P.W. 21. Basudev Nayak
P.W. 22. Gopal Ch. Das
P.W. 23. Niladri Sarkar
P.W. 24. SusantaRanjan Das
P.W. 25. Salimulla Khan
P.W. 26. Nirmala Kumar Rana
P.W. 27. Pramod Kumar Mishra
P.W. 28. Mrs. A.Deusuza
P.W. 29. Rajesh Kumar Lakra
P.W. 30. Dipti Ranjan Mohanty
P.W. 31. Ajaya Kumar Swain
P.W. 32. Abhisek Panigrahi
P.W. 33. Ajay Kumar Patra
P.W. 34. Hemanta Kumar Pani
P.W. 35. Raghunath Sahu
P.W. 36. Paramananda Nayak
P.W. 37. Nabendu Ray
P.W. 38. Srinivash Behera
P.W. 39. Soumya Oram
P.W. 40. Dhirajlal Patel
P.W. 41. Rabinarayan Mishra
P.W. 42. Ujala Chakrabarty

- P.W. 43. Bhikari Charan Pati
P.W. 44. Simanchal Behera
P.W. 45. Kanhu Ch. Dhir
P.W. 46. Biswamohan Panda
P.W. 47. ChitaranjanMohapatra
P.W. 48. Nitin Marathia
P.W. 49. PurnaCh.Satpathy
P.W. 50. Radha KantaSwain
P.W. 51. Hemanta Kumar Sethi
P.W. 52. Nihar Ranjan Pattanaik
P.W. 53. Sanjeev Das
P.W. 54. Banabihari Palata
P.W. 55. Goura Ch. Das
P.W. 56. Sudhansu Patra
P.W. 57. Sarbajit Mitra
P.W. 58. Pratap Kumar Sahu
P.W. 59. Bauribandhu Podar
P.W. 60. Prafulla Ch. Mangaraj
P.W. 61. Sanjay Panda
P.W. 62. Purna Ch. Panigrahi
P.W. 63. Nimai Patarai Ram
P.W. 64. Sudhir Kumar Mohanty
P.W. 65. M.ManmohanRao
P.W. 66. Ghanashyam Bansal
P.W. 67. Kartik Ch. Sethi
P.W. 68. G.Satyanarayan
P.W. 69. Tarkeswar Singh
P.W. 70. Saroj KumarDas
P.W. 71. Dhaneswar Singh.
P.W. 72. S.K.Agrawalla
P.W. 73. V.V.Chalan.
P.W. 74. B.N.Singh
P.W. 75. B.K.Rout.
P.W. 76. Sangram Singh Swain.
P.W. 77. Ranjan Kumar Das
P.W. 78. Asish Kumar Mishra.
P.W. 79. Baidyanath Samal
P.W. 80. Diptendu Bhattacharya.
P.W. 81. Snigdha Bhanja.

LIST OF WITNESSES EXAMINED FOR THE DEFENCE.

- D.W. 1 Bipin Behari Das
D.W. 2 Suratha Ch.Jena.

- D.W. 3 Somalina Pattanaik.
D.W. 4 Himansu KumarMishra.
D.W. 5 Durga Prasanna Mishra.
D.W. 6 P.B.Mandal.
D.W. 7 Nilamani
D.W. 8 Niranjan Nayak.
D.W. 9 Ratnakar Sethi.
D.W. 10. Jyotiranjana Jena.
D.W. 11 Vijay Kumar
D.W. 12 S.K.Satpathy
D.W. 13 Sandeep Raja Ram Rajshirki
D.W. 14 Abhaya Anirban.
D.W. 15 Brajabandhu Das
D.W. 16 Srinibas Patra.
D.W. 17 Snehalata Jena.
D.W. 18 Pradeepta Kumar Jena

LIST OF EXHIBITS MARKED ON BEHALF OF THE PROSECUTION.

- | | |
|--------------------|-------------------------------|
| Ext. 1 | Seizure list |
| Ext. 1/1 | Signature of P.W.1. |
| Ext. 2 | Account opening form. |
| Ext. 2/1 | Specimen signature of accused |
| Ext. 2/2 | Signature of S.Rao. |
| Ext. 3 | Statement of account. |
| Ext. 4 to Ext.4/4 | Credit voucher. |
| Ext. 5 | Certificate given by P.W.1 |
| Ext. 5/1 | Signature of P.W.1. |
| Ext. 6 to Ext.6/48 | Withdrawal slip |
| Ext. 7 | Seizure list |
| Ext. 7/1. | Signature of P.W.2 |
| Ext. 8 | Application |
| Ext. 8/1 | List of transaction. |
| Ext. 9 | Application. |
| Ext. 9/1 | Detail report. |
| Ext. 10 | Information |
| Ext. 10/1 | Signature of P.W.3 |
| Ext. 11 | Seizure list. |
| Ext. 11/1 | Signature of P.W.4 |
| Ext. 12 | PPF A/c opening form. |
| Ext. 12/1 | Signature of D.Das |
| Ext. 13 | Copy of statement of account. |

Ext. 13/1	Certificate given by P.W.4.
Ext. 14	Credit voucher
Ext. 14/1	Certificate given by P.W.4.
Ext. 15	Seizure list
Ext. 15/1.	Signature of P.W.4.
Ext. 16	A/c statement.
Ext. 16/1	Signature of P.W.4.
Ext. 17	Application
Ext. 18	Statement of account
Ext. 19	Statement of account.
Ext. 19/1	Certificate given by P.W.4.
Ext. 20	Letter
Ext. 20/1	Signature of P.W.4.
Ext. 21 to 24	LIC insurance policies.
Ext. 25	Information given by Sub-Registrar
Ext. 25/1	Signature of P.W.6.
Ext. 26 to 29.	Certified copy of sale deed.
Ext. 30	Seizure list.
Ext. 30/1	Signature of P.W.7
Ext. 31	Account opening form with speciere card.
Ext. 32	Credit voucher.
Ext. 33	debit voucher.
Ext. 34	Copy of statement of account.
Ext. 35	Seizure list.
Ext. 35/1	Signature of P.W.8.
Ext. 36	Account opening form of S.Jena.
Ext. 37	Copy of statement of account.
Ext. 38	Credit voucher
Ext. 39	Cheque
Ext. 40	Debit voucher.
Ext. 41	Letter
Ext. 41/1	Signature of P.W.8
Ext. 42	Account opening form
Ext. 43	Statement of account.
Ext. 44	Credit voucher.
Ext. 45	Letter
Ext. 45/1	Signature of P.W.9
Ext. 46	Statement of account
Ext. 46/1	Signature of P.W.9
Ext. 47	Statement
Ext. 47/1.	Signature of Sr. Personal officer.
Ext. 48	Statement
Ext. 48/1.	Signature of Personal officer.
Ext. 49	Letter

Ext. 49/1	Zimanama
Ext. 50 and 51	Copy of register.
Ext. 50/1 and 51/10	Required certificates.
Ext. 52	Seizure list.
Ext. 52/1	Signature of P.W.10
Ext. 53	Seizure list
Ext. 53/1	Signature of P.W.11
Ext. 54	Copy of pay particulars.
Ext. 55	Seizure list
Ext. 55/1	Signature of P.W.11
Ext. 56	Pay particulars.
Ext. 56/1	Signature of P.W.11
Ext. 57	Pay slip
Ext. 58	Seizure list
Ext. 58/1	Signature of p.w.11
Ext. 59	Letter
Ext. 59/1	Signature of P.W.12
Ext. 60	Pay particulars.
Ext. 61	Letter
Ext. 61/1	Signature of personal officer.
Ext. 62	Seizure list
Ext. 62/1.	Signature of p.w.13
Ext. 63	Bill book
Ext. 64	Bill
Ext. 65	Seizure list
Ext. 65/1	Signature of p.w.14
Ext. 66	Bill book
Ext. 67	Registration certificate.
Ext. 68	Bill of washing machine
Ext. 69	Bill.
Ext. 70	Search list
Ext. 70/1	Signature of p.w.15
Ext. 70/2.	Electric bill
Ext. 70/3.	Telephone bill
Ext. 70/4.	Counterfoil receipt book.
Ext. 71	Seizure list
Ext. 71/1.	Signature of p.w.16
Ext. 71/2	Signature of V.V.Chalam.
Ext. 72	Zimanama
Ext. 72/1	Signature of P.W.16
Ext. 72/2	Signature of V.V.Chalam
Ext. 73	Certified copies of page No.29,15,18, 17 and 21 of salary audit register.

Ext. 73/1	Certificate of P.W.16
Ext. 74	Seizure list
Ext. 74/1	Signature of P.W.16
Ext. 74/2	Signature of V.V.Chalam.
Ext. 75	Application form for P.F.Advance.
Ext. 76	Seizure list
Ext. 76/1.	Signature of P.W.17
Ext. 77	Cash memo
Ext. 78	Cash memo
Ext. 79	Seizure list
Ext. 79/1.	Signature of P.W.18
Ext. 80	Zimanama
Ext. 80/1	Signature of P.W.18
Ext. 81	Certified copy of LIC docket No.585248258 of Snehalata Jena
Ext. 82	Certified copy of LIC policy docket of P.K.Jena.
Ext. 83	Policy No.585248451
Ext. 84	Policy No. 586305811
Ext. 85	Policy No.581959001
Ext. 86	Policy No. 584603414
Ext. 87	Zimanama
Ext. 88	Seizure list
Ext. 88/1	Signature of P.W.18
Ext. 89	Information
Ext. 89/1	Signature of P.W.18
Ext. 90	Status report of policies.
Ext. 91	Statement relating to drawal of salary of P.K.Jena.
Ext. 91/1	Certificate given by Sr. divisional Personal Officer.
Ext. 92	Information
Ext. 93	Letter dated 22.7.2009
Ext. 93	Signature of P.W.19
Ext. 94	Circular
Ext. 95	Letter dated 6.8.09
Ext. 95/1	Signature of U.N.Mahali.
Ext. 96	Payment of bills in respect of telephone No.KLR 235208 in the name of S.Jena.
Ext. 96/1	Signature of I.C.Panda.
Ext. 97	Information
Ext. 97/1	Signature of Mr. Behura.
Ext. 98	Information
Ext. 99 to 101	Details of payment made in three mobile

	phones
Ext. 102	Letter relating to information
Ext. 102/1	Signature of I.C.Panda.
Ext. 102/2	Information
Ext. 103	Xerox copy of application form
Ext. 104	Forwarding letter of G.M.
Ext. 104/1	Signature of G.M.
Ext. 105	Information in respect of land phone No. KLR 2356208
Ext. 106	Detail expenditure in respect of land phone.
Ext. 107	Letter given by account officer to Sr. SDE
Ext. 107/1	Signature of I.C.Panda
Ext. 108	Detail expenditure of telephone
Ext. 109	Letter dated 26.8.2009
Ext. 109/1	Signature of I.C.Panda.
Ext. 110	Details expenditure in respect of phone No.JJN 2491765
Ext. 111	Seizure list.
Ext. 111/1	Signature of P.W.20
Ext. Ext.112	Zimanama
Ext. Ext.112/1	Signature of P.W.20
Ext. 113 to 116	Files.
Ext. 117	Seizure list
Ext. 117/1	Signature of p.w.21
Ext. 118	Zimanama
Ext. 119	Certified copy of sale deed
Ext. 120	Certified copy of case No. from under valuation case record.
Ext. 121	Copy of money receipt.
Ext. 122	Money receipt book
Ext. 122/1	Receipt relating to payment of deficit amount.
Ext. 123	Letter dated 24.9.09
Ext. 123/1	Signature of the District sub-registrar.
Ext. 124	Certified copy of sale deed
Ext. 125	Forwarding letter to S.P. C.B.I.Bhubaneswar
Ext. 125/1	Signature of Padma Mohanty
Ext. 126	Passport application of accused P.K.Jena.
Ext. 126/1	Signature of p.W.20
Ext. 127	Forwarding letter of Padma Mohanty to S.P.C.B.I. Bhubaneswar
Ext. 128	Pssport application of Sibangi Jena d/o. P.K.Jena.
Ext. 128/1.	Signature of P.W.20

Ext. 129	Passport application of Noopur Jena
Ext. 129/1.	Signature of P.W.20
Ext. 130	Passport application of Snehalata Jena.
Ext. 130/1.	Signature of P.W.20
Ext. 131	Letter issued by P.W.21
Ext. 131/1	Signature of P.W.21
Ext. 132	Letter NO.2/2222 dt.17.7.09 of Director of Horticulture.
Ext. 132/1	Signature of Director Horticulture.
Ext. 133	Receipt issued by Ayub Khan.
Ext. 133/1	Signature of P.W.25
Ext. 134	Seizure list
Ext. 134/1	Signature of P.W.26
Ext. 135	Zimanama
Ext. 135/1	Signature of p.w.26
Ext. 136	Letter
Ext. 136/1.	Signature of vice principal
Ext. 137	Parents sheet
Ext. 137/1	Under taking of parent.
Ext. 137/2	Insurance Ambrutyasen Sikha Jyjana
Ext. 137/3	Admission form
Ext. 137/4	Transfer certificate
Ext. 138	Undertaking of student
Ext. 138/1	Undertaking of parent
Ext. 138/2	Admission form
Ext. 139	Expenditure statement submitted by vice principal
Ext. 139/1	Signature of vice principal
Ext. 140	Details of expenditure in respect of Sibani Jena.
Ext. 140/1	Signature of vice principal
Ext. 141	Forwarding letter
Ext. 141/1	Signature of vice principal
Ext. 142	Detail expenditure of Noopur jena.
Ext. 142/1	signature of vice principal
Ext. 143	Parent sheet of Noopur Jena
Ext. 144	Undertaking of parents
Ext. 144/1	Signature of P.W.27
Ext. 144/2	Documents annexed to Ext.144
Ext. 144/3	Signature of P.W.27
Ext. 145	Forwarding letter
Ext. 145/1	Signature of P.W.28
Ext. 146	Application of Sibangi Jena
Ext. 147	Transfer certificate of Sibangi Jena.

Ext. 148	Seizure list
Ext. 148/1	Signature of P.W.29
Ext. 149	Zimanama
Ext. 149/1	Signature of p.w.29
Ext. 150	Attested true copy
Ext. 151	Bill register
Ext. 152	Letter to Inspector C.B.I.
Ext. 152/1	Signature of J. Hembram.
Ext. 153	Xerox copy of LPC
Ext. 154	Xerox copy of LPC
Ext. 153/1 and 154/1	Signature of P.W.29
Ext. 155	Salary statement
Ext. 155/1	Signature of J. Hembram.
Ext. 156	Letter No.A-45011/1 96 dt.3.9.09
Ext. 156/1	Signature of p.w.30
Ext. 156/2	Attested copy of pay bill register.
Ext. 156/3 and 156/4	Signature of Nagendra Kumar
Ext. 156/5	Certified copy of statement of salary
Ext. 156/6	Signature of Nagendra Kumar
Ext. 157	Letter dt.10.9.09
Ext. 157/1	Signature of Bijaya Laxmi Mohanty
Ext. 157/2	Enclosure fees paid by the accused for his daughter
Ext. 157/3	Signature of p.w.31
Ext. 158	Admission form of miss. Nupur Jena.
Ext. 158/1.	Signature of P.W.31
Ext. 159	Zimanama
Ext. 159/1	Signature of P.W.31
Ext. 160	Transfer certificate.
Ext. 161	Application for admission of miss. Nupur Jena.
Ext. 161/1	Signature of K.Srinivas Rao.
Ext. 162	Forwarding letter of P.W.32
Ext. 162/1	Signature of P.W.12 on Ext.162
Ext. 163	Statement of account
Ext. 164	The application of applicant Snehalata Jena.
Ext. 165	Bill
Ext. 165/1	Signature of P.W.33
Ext. 166	Letter
Ext. 166/1	Signature of p.W.34
Ext. 167	Letter No.84 dt.7.7.09
Ext. 167/1	Signature of Antaryami Mishra.

Ext. 168 to 171	Certified copy of Bills.
Ext. 168/1 to 171/1	Signature of the Principal Antaryami Mishra
Ext. 172	Letter No.3702 dt.16.9.2013
Ext. 172/1	Signature of P.K.Chhotray , Tahasildar
Ext. 173	True copy of rent receipt in the name of P.K.Jena.
Ext. 173/1	Signature and endorsement of P.K.Chhotray.
Ext. 174	R.O.R in the name of P.K.Jena.
Ext. 175	True attested copy of tenancy ledger in the name of P.K.jena.
Ext. 175/1	Signature of Tahasildar P.K.Chhotray.
Ext. 175/2 and 175/3	Signature of P.W.35
Ext. 176	Attested copy
Ext. 176/1	Signature of P.K.Chhotray
Ext. 176/2	Signature of P.K.Chotray
Ext. 176/3 and 176/4	Signature of P.W.35
Ext. 177	True attested copy of Mouza Wasisiha.
Ext. 177/1	Signature of P.K.Chotray.
Ext. 177/2	Signature of P.W.35
Ext. 178	True attested copy of Khatiana.
Ext. 178/1	Endorsement and signature of P.K.Chotray.
Ext. 178/2	Signature of P.W.35.
Ext. 179	True attested copy of sale deed No. 5360
Ext. 179/1 to 179/6	Endorsement and signature of P.K.Chhotray.
Ext. 180	Letter no.13803
Ext. 180/1	Signature of A.K.Kanungo
Ext. 181	Application of Sri P.K.Jena.
Ext. 182	Affidavit sworn by P.K.Jena.
Ext. 183	Deposit advice of P.K.Jena.
Ext. 184	Money receipt of OSHB for purchase of application by P.K.Jena.
Ext. 185	Service certificate of P.K.Jena.
Ext. 186	Relevant portion of note sheet
Ext. 186/1 to 186/2	Endorsement and signatures of Ashok Kr. Kanungo.
Ext. 187	Refunded the money to P.K.Jena
Ext. 188	Cash memo of garments.
Ext. 189	Letter of P.W.37
Ext. 189/1	Signature of P.W.37
Ext. 190	Extract of the sale register duly attested by P.W.37

Ext. 190/1	Signature of P.W.37
Ext. 190/2	The relevant entry
Ext. 191	Statement of P.K.Jena
Ext. 191 /1 and 191/2	Signature of P.W.38
Ext. 192	The annexure-B
Ext. 192/1	Signature and seal of P.W.38
Ext. 193	Annexure-C
Ext. 193/1	Signature of P.W.38
Ext. 194	Seizure list
Ext. 194/1	Signature of P.W.38
Ext. 195	Seizure list.
Ext. 195/1	Signature of p.w.39
Ext. 196	Letter dt.22.7.09
Ext. 196/1	Signature of p.w.39
Ext. 197	Pay particulars.
Ext. 197/1	Signature of p.w.39
Ext. 198	Seizure list
Ext. 198/1	Signature of p.w.40
Ext. 199	Bill no.40 dt.17.11.99
Ext. 200	Bill no.44 dt.2.12.99
Ext. 191/1 and 200/1	Signature of D.Patel
Ext. 201	Xerox copy of receipt.
Ext. 201/1	Signature of P.W.41
Ext. 202	Letter dt.14.10.09 issued by Deputy commissioner, BMC
Ext. 202/1	Signature of D.C.BMC
Ext. 203	Letter No.KARVY dt.19.8.2009
Ext. 203/1	Signature of C.H. Biswanath
Ext. 204	Account No.3869 of S.Jena.
Ext. 205	Credit voucher.
Ext. 206	CHEQUE DT.22.8.2008 OF s.Jena.
Ext. 207	Statement of Account.
Ext. 207/1.	Signature of P.W.43.
Ext. 208	Last page of statement of account.
Ext. 208/1	Signature of P.W.43
Ext. 209	Seizure list.
Ext. 210	Certificates No.2 (A) of B.Bank of evidence Act.
Ext. 211 to 211/22	Attested copies of service book of Sri P.K.Jena.
Ext. 212	Letter No.93 dt.3.1.09
Ext. 212/1	Signature of P.W.45

Ext. 213	ROR in respect of plot no.1812 , 1865 and 1859
Ext. 214	ROR of Plot No.1811.
Ext. 215	Statement of account along with letter dt.20.8.09
Ext. 215/1	Signature with seal of P./w.46
Ext. 216	Statement of account.
Ext. 217	Letter of SBI dt.13.10.09 issued to S.P.C.B.I.
Ext. 218	Letter with enclosure.
Ext. 219 to 221	Samrudhi re-investment certificates.
Ext. 222	Seizure list.
Ext. 222/1	Signature of P.W.49 in Ext.222.
Ext. 223	Letter No. 243
Ext. 223/1	Signature of P.W.50
Ext. 224	Letter No.226 dt.17.9.09
Ext. 224/1	Signature of P.W.50
Ext. 223/2	Details of sub-standard seeds returned to Smt. Snehalata Jena.
Ext. 225 to 230	Income Tax returns for the assessment year 2003-04 to 2008-09
Ext. 231	Letter No.GEN 205/09-10 dt.12.10.2009
Ext. 231/1	Signature of P.W.53
Ext. 232	Letter dated 22.9.09
Ext. 232/1	Signature of P.W.54
Ext. 233	Statement of P.K.Jena.
Ext. 234	Statement of Smt. S.Jena.
Ext. 233/1 and 234/1	Signature of P.W.54.
Ext. 158/2.	Signature of P.W.56
Ext. 159/2	Signature of P.W.56
Ext. 235	Letter dt.3.9.09
Ext. 236	Letter dt.11.10.09
Ext. 237	Valuation report of p.w.59
Ext. 237/1.	Signature of P.W.59
Ext. Ext.238	Letter dt.30.10.09
Ext. 238/1.	Signature of P.W.61.
Ext. 239	Letter dated 23.7.09
Ext. 239/1.	Signature of P.W.62
Ext. 240	Seizure memo
Ext. 240/1.	Signature of P.W.63
Ext. 241	Zimanama
Ext. 241/1	Signature of P.W.63
Ext. 242	LIC policy of P.K.Jena.

Ext. 243	LIC policy of Snehalata Jena.
Ext. 244	Letter dt.15.9.09
Ext. 245	LIC docket policy of S.Jena.
Ext. 246	Letter dated 31.7.09.
Ext. 246/1	Signature of P.W.64 .
Ext. 247	Letter dt.17.7.09 of P.W.65
Ext. 247/1.	Signature of P.W.65
Ext. 248	Income Tax return for the year 2005-066
Ext. 249	Income Tax return of Smt. Jena for the year 2006-07.
Ext. 250	Letter dt.21.7.09
Ext. 251	Letter dt.24.9.09.
Ext. 251/1	Signature of P.W.65
Ext. 252 to 255	C.C of Income Tax return for the year 2002-03 to 200-06
Ext. 252/1 to 255/1	Signature of P.W.65.
Ext. 256	Letter dt.30.10.09.
Ext. 256/1	Signature of P.W.65
Ext. 257	Income tax return for the year 2008-09
Ext. 257/1	Signature with endorsement of PW.65.
Ext. 258	Forwarding report.
Ext. 258/1	Signature of P.W.66
Ext. 259	Sanction order.
Ext. 260	Copy of the memorandum of Govt. of India Dept. of passport training which is enclosed with the Ext.259.
Ext. 261	Inventory memo.
Ext. 261/1 to 261/4	Signatures of P.W.67
Ext. 262	Memorandum
Ext. 262/1	Signature of P.W.67
Ext. 263	Seizure list.
Ext. 263/1 and 263/2	Signatures of P.W.67
Ext. 263/3	UTI passbook.
Ext. 263/4	Cheque book
Ext. 263/5	Cheque book
Ext. 263/6	Cheque book
Ext. 263/7	SBI cheque book.
Ext. 263/8	ICICI cheque book
Ext. 263/9	Pay in-slip
Ext. 263/10	Bunch of papers.
Ext. 263/11	Bunch of papers.
Ext. 263/12	Bunch of papers.
Ext. 263/13	Bunch of papers

Ext. 263/14	Bunch of I.T.
Ext. 263/15	Bunch of investment papers.
Ext. 263/16	Credit card.
Ext. 263/17	Credit card.
Ext. 263/18	Bunch of papers.
Ext. 263/19	Bunch of papers.
Ext. 263/20	Signature of P.W.68
Ext. 264	Letter along with enclosures.
Ext. 264/1	Signature of P.W.69
Ext. 265	Letter dt.30.10.09
Ext. 265/1	Signature of p.w.69
Ext. 266	Information valid letter dt.10.9.09.
Ext. 266/1	Signature of P.W.70
Ext. 267	Letter dt.9.7.09
Ext. 267/1	Signature of P.W.71
Ext. 268	Letter dt.27.7.09
Ext. 268/1	Signature of P.W.71
Ext. 269	Letter dt.5.11.09
Ext. 269/1	Signature of M.K.Pattanaik.
Ext. 270	Memorandum
Ext. 270/1	Signature of P.W.74
Ext. 271	Another memorandum.
Ext. 271/1	Signature of P.W.74
Ext. 272	Memorandum prepared by S.Bhanja on 24.10.09
Ext. 272/1	Signature of P.W.74
Ext. 273	Letter dt.30.10.09
Ext. 273/1	Signature of P.W.74
Ext. 274	Valuation report
Ext. 274/1	Signature of P.W.74
Ext. 275	Specification building.
Ext. 275/1	Signature of P.W.74
Ext. 276	Specification of building of Smt.S.Jena.
Ext. 276/1	Signature of P.W.74
Ext. 277	Valuation report prepared by P.W.74
Ext. 277/1	Signature of P.W.74
Ext. 278	Valuation report of boundary wall.
Ext. 278/1	Signature of P.W.74
Ext. 270/2	Signature of P.W.75
Ext. 271/2	Signature of P.W.75
Ext. 272/2	Signature of P.W.75
Ext. 274/2	Signature of P.W.75
Ext. 275/2	Signature of P.W.75
Ext. 276/2	Signature of P.W.75

Ext. 277/2	Signature of P.W.75
Ext. 278/2	Signature of P.W.75
Ext. 279	Seizure memo
Ext. 279/1	Signature of P.W.76
Ext. 280	Zimanama.
Ext. 280/1	Signature of P.W.76
Ext. 281 to 284	Policy docket.
Ext. 285	Information with enclosures and letter dated 20.8.2009
Ext. 285/1	Signature of P.W.76
Ext. 286	Letter dt.15.9.09 of LIC of India with its enclosure.
Ext. 286/1	Signature of P.W.76
Ext. 287	Letter dt.24.11.89
Ext. 287/1	Signature of P.W.76
Ext. 261/5	Signature of P.W.77
Ext. 263/21	Signature of P.W.77
Ext. 237/2	Signature of P.W.7
Ext. 262/2	Signature of P.W.77
Ext. 70/5	Signature of P.W.78
Ext. 264/2	Endorsement of S.Bhanja
Ext. 1/ 2	Signature of P.W.80.
Ext. 11/2	Signature of P.W.80.
Ext. 53/3	Signature of p.W.80
Ext. 55/2	Signature of P.W.80
Ext. 58/2	Signature of P.W.80
Ext. 30/2	Signature of P.W.80
Ext. 49/2	Signature of P.W.80
Ext. 52/2	Signature of P.W.80
Ext. 189/2	Endorsement of P.W.80
Ext. 209/1	Signature of P.W.80
Ext. 212/2	Signature of P.W.80
Ext. 35/2	Signature of P.W.80
Ext. 25/2	Acknowledgement of P.W.80
Ext. 288	Letter dt.6.3.2009
Ext. 288/1	Endorsement of P.W.80
Ext. 7/2	Signature of P.W.80
Ext. 280	Formal FIR
Ext. 289/1	Signature of S.P.C.B.I. Bhubaneswar.
Ext. 71/3	Signature of P.W.81
Ext. 74/3	Signature of P.W.81
Ext. 117/2	Signature of P.W.81
Ext. 79/2	Signature of P.W.81
Ext. 88/2	Signature of P.W.81

Ext. 148/2	Signature of P.W.81
Ext. 111/2	Signature of P.W.81
Ext. 158/3	Signature of P.W.81
Ext. 240/2	Signature of P.W.81
Ext. 15/2	Signature of P.W.81
Ext. 222/2	Signature of P.W.81
Ext. 279/2	Signature of P.W.81
Ext. 72/3	Signature of P.W.81
Ext. 87/2	Signature of P.W.81
Ext. 112/2	Signature of p.W.81
Ext. 290	True copy of ICICI Bond vide letter No.9.10.09.
Ext. 291	Letter received by P.W.81 from Chief Manager, LIC Branch-1, Bhubaneswar.
Ext. 292	Letter dt.7.5.2010 received from LIC
Ext. 293	Seizure list dt.6.7.09.
Ext. 293/1	Signature of P.W.81
Ext. 294	Cash memo book.
Ext. 294/1	Relevant cash memo No.16533
Ext. 263/22, 263/23 and 263/24	Signatures of P.W.18.
Ext. 261/6 to 261/9	Signatures of D.W.18
Ext. 261/10 to 261/12	Signatures of S.Jena
Ext. 262/3 and 262/14	Signatures of D.W.17 S.Jena.
Ext. 263/25 to 263/29	Signatures of D.W.17 S.Jena in Ext.263.

LIST OF EXHIBITS MARKED ON BEHALF OF THE DEFENCE.

Ext. A	Letter along with particulars.
Ext. B	Money receipt.
Ext. B/1	Signature of Laxmidhar the then Sub-Registrar
Ext. C	Counter foil of bill of payments.
Ext. D	Parents copy obtained under RTI Act.
Ext. E	Original chalan copy.
Ext. F	Induction training certificate of accused.
Ext. G	Xerox copy of bill Ext.165.
Ext. H	Statement recoded by P.W.41.
Ext. J	Information relating to seed cost production incentive and details of seeds purchased.
Ext. K	Order dt.30.11.2006
Ext. K/1	Signatures of P.W.65.

	andK/2	
Ext. L		Income tax return with acknowledgement for the assessment year 1999-2000 with enclosures.
Ext. M		Income tax return with acknowledgement for the assessment year 2000-01 with enclosures.
Ext. N		Income tax return with acknowledgement for the assessment year 2001-02 with enclosures.
Ext. P		Income tax return with acknowledgement for the assessment year 2002-03 with enclosures.
Ext. Q		Income tax return with acknowledgement for the assessment year 2003-04 with enclosures.
Ext. R		Income tax return with acknowledgement for the assessment year 2004-05 with enclosures.
Ext. S		Income tax return with acknowledgement for the assessment year 2005-06 with enclosures.
Ext. T		Income tax return with acknowledgement for the assessment year 2006-07 with enclosures.
Ext. U		Income tax return with acknowledgement for the assessment year 2007-08 with enclosures.
Ext. V		Income tax return with acknowledgement for the assessment year 2008-09 with enclosures.
Ext. W		Letter dt.22.2.2010
Ext. W/1		Signature of P.W.65 on Ext.W.
Ext. Y to Y/2		Original tickets issued on 10.11.2006
Ext. Z		Letter dt.30.11.09 addressed to D.G.M. Vigilance East Coast Railway.
Ext. A-1.		Sale deed No.865 dt.9.6.2003.
Ext. B-1		Sale deed No.866 d.9.6.2000
Ext. C-1		Application form.
Ext. C-1/1		Signature of D.W.2
Ext. C-1/2		RTI information.
Ext. D-1		Certificate of ICICI of Bank Issued to Smt.Jena.
Ext. D-1/1		Signature of D.W.3.
Ext. E-1		Forwarding letter dt.12.4.2012.
Ext. E-1/1		Signature of D.W.4.
Ext. E-1/2		Information with enclosure.
Ext. E-1/3		Signature of Branch Manager
Ext. F-1		Letter dt. 12.8.2014.
Ext. F-1/1		Signature of D.W.5
Ext. G-1		Letter dt.9.10.13.
Ext. G-1/1		Signature of D.W.6
Ext. G-1/2		Information enclosed in Ext.G-1.
Ext. H-1		Another letter dt.3.10.2013.
Ext. H-1/1		Signature of D.W.6 in Ext.H-1.

Ext. H-1/2	Enclosure of Ext.H-1.
Ext. J-1	Letter dt.4.10.2013
Ext. J-1/1	Signature of D.W.7.
Ext. J-1/2	Enclosure of Ext.J-1.
Ext. J-1/3 to J-1/7	Payslips.
Ext. K-1	Letter dt.10.10.03 obtained under RTI Act.
Ext. K-1/1	Signature of D.W.8.
Ext. L-1	Money receipt.
Ext. L-1/1	Signature of P.K.Jena.
Ext. L-1/2 to L-1/4	Money receipts granted by S.Jena.
Ext. M-1	Letter dated 1.6.12.
Ext. M-1/1	Signature of D.W.11
Ext. N-1	Letter dt.12.5.2012.
Ext. N-1/1	Signature of D.W.12
Ext. N-1/2	Letter dt.20.8.98 furnished by D.W.12
Ext. N-1/3	Signature of D.W.12
Ext. P-1	Letter dt. 31.10.2013 furnished by D.W.13.
Ext. P-1/1	Signature of P.W.13
Ext. C-1/3	Signature of D.W.13
Ext. Q-1	Letter dt.16.9.2011 furnished by G.M.Maya.
Ext. Q-1/1	Signature of G.K.Maya
Ext. Q-1/2 and Q-1/3	Certificate under Bankers Book Evidence Act furnished by D.W.14.
Ext. R-1 and R-2	Two sale deeds.
Ext. R-1/1	Signature of D.W.15
Ext. R-2/1	Signature of D.W.15
Ext. A-1/1	Signature of D.W.15
Ext. B-1/1	Signature of D.W.15.
Ext. S-1	List of articles and ornaments etc.
Ext. T-1	Salary certificate of P.K.Jena.
Ext. U-1	G.P.F. pass book of P.K.Jena.
Ext. U-1/1	Relevant entry in Ext.U-1.
Ext. V-1 and V-1/1	Certificates regarding training programme received from the authority of Singapore and Malaysia.