

**आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'A' BENCH, CHENNAI**

**माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI V. DURGA RAO, JUDICIAL MEMBER AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ **ITA No.982/Chny/2020**  
(निर्धारण वर्ष / **Assessment Year: 2016-17**)

<b>DCIT</b> Circle -1, Trichy.	<b>बनाम/ Vs.</b>	<b>Smt. R. Geetha,</b> No. 2/29, Kulavaipettai, Alangudi, Pudukkottai- 622 301.
स्थायी लेखा सं./जी आइ आर सं./ <b>PAN/GIR No. AGXPG-1544-N</b>		
(पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओर से/ <b>Assessee by</b>	:	Shri. Y. Sridhar (CA) – Ld. AR
प्रत्यर्थी की ओर से/ <b>Revenue by</b>	:	Shri AR V Sreenivasan (Addl. CIT) – Ld. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	30-06-2022
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	12-08-2022

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by Revenue for Assessment Year (AY) 2016-17 arises out of the order of learned Commissioner of Income Tax (Appeals)-1, Trichy [CIT(A)] dated 20.07.2020 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 12.12.2018. The grounds taken by the revenue read as under:

1. The order of the Id.CIT(A) is not acceptable with respect to the deletion of additions made towards unexplained investment of Rs.3,16,46,929/- and deletion of unexplained credit in the name of Chendur Earth Movers to the tune of Rs.2,20,21,180/-. The order of the CIT(A) is contrary to law and facts of the case.

2 The Id. CIT(A) failed to note that the assessee had not discharged his onus of proving the identity, genuineness and credit worthiness of the debtors, creditors, etc.

3. The Id. CIT(A) failed to note that the amount shown as Rs.35,50,000/- shown as drawings of the appellant not accounted for by the firm in the reconciliation statement given before the CIT(A) did not appearing in the reconciliation statement given during the remand proceedings and that the reconciliation statement given by the assessee is only play of numbers and not genuine.

4. For these and such other grounds that may be adduced at the time of hearing it is prayed that the order of the CIT(A) may be reversed and that of the Assessing officer restored.

As evident, the revenue is aggrieved by relief provided by Ld. CIT(A) in the impugned order qua unexplained investment and unexplained credit.

2. The Registry has noted delay of 95 days in the appeal, the condonation of which has been sought by Ld. Sr. DR. Considering the fact that the impugned order was passed during lockdown situation arising out of Covid-19 Pandemic, we condone the delay and admit the appeal for adjudication on merits.

3. The Ld. Sr. DR, drawing attention to the grounds of appeal, assailed the relief granted to the assessee. The Ld. Sr. DR submitted that the assessee could not reconcile the differences and therefore, Ld. CIT(A) erred in granting relief to the assessee. However, Ld. AR placed on record reconciliation chart and submitted that the difference in balances were duly reconciled based on which the relief was granted by Ld. CIT(A) in the impugned order. Having heard rival submissions and after perusal of case records, our adjudication would be as under.

### **Assessment Proceedings**

4.1 The assessee being resident individual was assessed u/s. 143(3) of the Act on 12.12.2018. The assessee filed return of income at Rs.937.27 Lacs which was finally assessed at Rs.1677.80 Lacs after certain additions. As evident from grounds of appeal, two issues arise

out of impugned order viz. (i) Addition of Unexplained Credit; (ii) Addition of unexplained investment.

#### **4.2 Unexplained Credit**

The assessee reflected creditor of Rs.224.12 Lacs in the name of M/s Chendur Earth Movers (CEM) in the Balance Sheet as filed during the course of assessment proceedings. However, this amount was not reflected in the return of income. The assessee did not furnish proof and confirmation letter for having received such amount with supportive evidences. The assessee's name did not figure in debtors list reflected by that entity. Accordingly, this amount was added to the income of the assessee.

#### **4.3 Unexplained Investments**

On analysis of financial statements, it was noted that the assessee's expenses / investments were more than the income and receipts. There was difference of Rs.316.46 Lacs as under: -

Opening debtors	15873830	Taxes paid	33276906
Opening cash balance	202600	Closing Bank Balance	7577511
Opening bank balance	4781969	Closing Cash Balance	13393687
Current year income	93727964	Closing debtors	698040
Agricultural income	2274960	Purchase of immovable property	157077643
Borrowals from Husband	14767200	Purchase of car	5469125
Borrowal from father	9000000		
Borrowals through TMB OD	24993292		
Gift from mother-in-law	5000000		
Gift from others	11500000		
HDFC Car loan	3724168		
<b>Total</b>	<b>185845983</b>	<b>Total</b>	<b>217492912</b>

Accordingly, the amount of Rs.316.46 Lacs was held to be unexplained investment and added to assessee's income.

#### **Appellate Proceedings**

5.1 The assessee assailed the additions during appellate proceedings which were subjected to remand proceedings. The remand report was

furnished by Ld. AO on 07.05.2019 whereas 2<sup>nd</sup> remand report was furnished on 07.07.2020.

5.2 After perusal of financial statements, it transpired that the assessee was a partner on CEM with 10% profit-share and had a debit balance in the current account. The entry was explained by the assessee as under:

**Addition as non genuine sundry creditors: Rs. 2,24,12,180/-**

The learned Assessing officer has made an addition of Rs.2,24,12,180/- holding that the sundry creditor is not genuine and also on the ground that the name of the appellant is not reflected as debtor in the books of the relevant party M/s. Chendur EarthMovers during the relevant period under consideration. The appellant submits that the appellant is one of the partners of the firm M/s. Chendur Earth Movers. The balance of M/s. Chendur earth Movers as per the books of the appellant were reflected at Rs.2,24,12,180/- (credit balance) but in the books of M/s Chendur Earth Movers the balance of the appellant is reflected at Rs.91,73,765.77(credit balance) this is due the fact that during the previous year relevant to the AY. 2016-17 contract receipts of Rs.3,12,50,000/- pertaining to M/s.Chendur Earth Movers were wrongly credited to the account of the appellant and subsequently rectified. Similarly profit for the year less taxes Rs.38,85,947/- in M/s. Chendur earth Movers were not entered in the books of the appellant and also a wrong entry of Rs.35,50,000/- made in the books of M/s. Chendur Earth Movers were rectified in the subsequent years The contract amount of Rs.3,12,50,000/- has been added to the income of M/s. Chendur Earth Movers and brought to tax in the assessment completed (copy submitted). It is submitted that there was only some wrong entries made in both the books which has led to the confusion. The transactions are genuine and hence it is prayed that the addition made on this account may be directed to be deleted as the same has been taxed in the hands of the firm.

5.3 The explanation of the assessee qua unexplained investment was as under: -

**Addition as un-explained investment: Rs. 3,16,46,929/-**

The learned Assessing officer has held that the appellant failed to prove the identity, genuineness and credit worthiness of the debtors, creditors and also explain the source of the investments made and has made an addition of Rs.3,16,46,929/- holding that the expenses/investments are more than the income and receipts. It is submitted that the data considered by the learned Assessing officer is factually incorrect. The Learned Assessing officer while preparing the cash flow statement has omitted to consider the balance in Chendur Earth Movers. The balance as on 31.03.2015 was a debit balance of Rs.95,87,819/- and the balance as on 31.03.2016 was a credit balance of Rs.2,24,12,180/- the cash flow from this source is Rs.3,15,85,946/-. The profit for the year is taken as Rs.9,37,27,964/- as against the actual profit for the year of Rs.9,37,33,937/- before taking into account agricultural income and agricultural expenses. Further there was a debit balance in Gokulam Chit amounting to Rs.5,25,000/- as on 31.03.2015. This has not been considered in

the Cash flowstatement worked out by the learned Assessing officer. So the flow statement as workedout by the assessing officer is not correct. The appellant pleads to submits here underthe cash flow statement reflecting the actual position and the source for the investmentsmade.

Opening cash and bank balance		Rs. 49,84, 569/-
Add: profit as per profit and loss account		Rs. 9,47, 90,275
Depreciation debited to profit and loss account		Rs. 10,36,393
Gifts received during the year		Rs. 1,65,00,000
<b>Less:</b> income tax and wealth tax	Rs. 3,20,43,070	
LIP and Mutual Funds	Rs. 9,93,836	
Drawings	Rs. 2,40,000	Rs. 3,32,76,906
		Rs. 8,40,34,331
<b>Add:</b> increase in Unsecured loans		Rs. 2,37,67,200
Increase in Secured Loans		Rs. 2,87,17,460
Amount withdrawn from Chendur Earth Movers		Rs. 3,20,00,000
Amount withdrawn from Gokulam Chits		Rs. 5,25,000
Reduction in sundry debtors		Rs. 1,51,75,790
	A1	Rs. 18,42,19,781
<b>Less:</b> addition to fixed Assets before depreciation	A2	Rs. 16,32,48,583
Closing cash and bank balances		Rs. 2,09,71,198

A2 = Addition to fixed assets which is explained by increase in capital

As per para 6 of AO the addition to fixed assets is only Rs.1294.20 lakhs.

It is submitted that the above cash flow proves that the appellant had adequate funds to meet the expenses and also make investments. In view of the facts of the case as explained, it is prayed that the additions of Rs.3,16,46,929/- made in the assessment order may kindly be directed to be deleted.

5.4 The aforesaid submissions found favor with Ld. CIT(A). The Ld. CIT(A) noted that AO ignored the opening balances in the assessee's personal capital account. The contract receipts of Rs.312.50 Lacs was wrongly credited by CEM to assessee's account which was rectified later on. As a result, the balance of assessee with CEM would be Rs.220.71 Lacs as against Rs.224.12 Lacs as reflected by the assessee. It was further noted by Ld. CIT(A) that in double entry book-keeping, the expenses are reflected on the liability side and income / flow of funds are shown on the asset side of the Balance Sheet. In case assessee is not able to explain the inflow, the additions are made u/s 68, which clearly states that "any sum found credited" in the books, have to be proved to

the satisfaction of the Assessing Officer. However, in the present case, Ld. AO has no doubts as to the Profit & Loss account of the assessee, neither on receipts, nor on the expenditure side. The additions have been made on improper understanding of Section 68 - 69C without appreciating the scheme of the Act, It is only where assessee found to be owner of investments, money and bullion or expenditure "Not Recorded" in the books could be added u/s 69, 69A & 69C respectively. In case of disclosed Balance Sheet, no such addition could be made on asset side. The Ld. AO has accepted the inflow of funds and the amount reflected as sundry creditors. (other than CEM). As regards investments, The Ld. AO had available with him the audited Balance Sheet of the assessee from-where it could be seen that no addition could be made for undisclosed investment from the audited Balance Sheets as investments in lands and other assets have duly been disclosed.

5.5. The reconciliation as given by the assessee was tabulated as under: -

This reconciliation has been given, which is as under:

(Rupees in lakhs)

Capital	1288.94	As on 31.03.16
	508.81	As on 31.03.15
	-----	
Increase in Capital	780.13	
	165.00	Gifts received during the year
	-----	
	615.13	-----A1
	-----	
Income declared for AY 2016-17		
Total income	937.27	
Tax	326.05	
	-----	
	611.22	A2 net of tax increase in capital
	-----	

Unreconciled difference A1 – A2=615.13 – 611.22 = 3.91

On the basis of the same, it was concluded by Ld. CIT(A) that adequate funds were available with the assessee for investments. Further, the figures picked up by AO were from declared accounts and there was no case that any undisclosed asset has been found. Finally, the addition on account of unexplained investment was deleted.

5.6 Regarding unexplained credit of CEM, it was held that the same was merely due to mismatch in account but the same would not lead to conclusion of escapement of income. Finally, except retaining the addition to the extent of unreconciled amount of Rs.3.91 Lacs, the balance addition was deleted.

5.7 Aggrieved, as aforesaid the revenue is in further appeal before us.

### **Our findings and Adjudication**

6. So far as the addition of unexplained cash credit is concerned, we find that the same arises out of reconciliation difference in assessee's capital account with CEM wherein the assessee is a partner. For the said reason, the assessee would not be figured as debtors in the books of that firm. We find that the assessee reflected balance of Rs.224.12 Lacs in the name of M/s CEM whereas this balance is Rs.91.73 Lacs in the books of the firm. The same has been reconciled by the assessee as under: -

<b>Particulars</b>	<b>Amount</b>
Closing Balance as on 31/03/2016 in the books of the Firm in the name of the Appellant Smt. R. Geetha	9173765 (Cr.)
Less: Contract receipts of the Firm (wrongly credited by the firm)	3,12,50,000
Less: Share of profit FY 2015-16 – Not accounted by the appellant in her books of account	48,97,450
Add: Share of Income Tax of the Firm – Not accounted by the appellant in her books of accounts	10,11,504
Add: Drawings of the Appellant not accounted in the books of the Firm	35,50,000
Capital Account Balance in the books of the Appellant as on 31/03/2016	2,24,12,180

Thus, the assessee was successful in reconciling the two differences and the allegation of Ld. AO regarding unexplained cash credit would have no legs to stand. It is undisputed finding that contract receipts of Rs.312.50 Lacs pertaining to firm was wrongly credited in assessee's account and the same has already been offered to tax by the firm. Therefore, this addition has rightly been deleted by Ld. CIT(A).

7. So far as the issue of unexplained investment is concerned, we find that the working of Ld. AO is based on abstract figures of the Balance Sheet. The Ld. AO failed to consider the correct balance in the account of CEM since opening balance of CEM as on 31.03.2014 was Rs.95.87 Lacs (Dr.) and closing balance was Rs.224.12 Lacs (Credit) resulting into inflow for the assessee to the extent of Rs.315.85 Lacs. The opening balance of Rs.5.25 Lacs held with Gokulam Chit was also not considered in the case flow statement. Therefore, the cash flow statement could not be held to be correct. As against this, the assessee furnished correct cash flow statement as under: -

Opening cash and bank balance		Rs. 49,84, 569/-
Add: profit as per profit and loss account		Rs. 9,47, 90,275
Depreciation debited to profit and loss account		Rs. 10,36,393
Gifts received during the year		Rs. 1,65,00,000
<b>Less:</b> income tax and wealth tax	Rs. 3,20,43,070	
LIP and Mutual Funds	Rs. 9,93,836	
Drawings	Rs. 2,40,000	Rs. 3,32,76,906
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Closing cash and bank balances		Rs. 2,09,71,198

A2 = Addition to fixed assets which is explained by increase in capital

As per para 6 of AO the addition to fixed assets is only Rs.1294.20 lakhs.

It could be seen that the assessee had adequate funds to meet the expenses and also to make investments. The same is further supported by the workings made by Ld. CIT(A) which has been extracted by us in preceding para 5.5. Therefore, the action of Ld. CIT(A) in deleting the addition could not be faulted with.

8. The Ld. Sr. DR has pleaded that the drawings of Rs.35.50 Lacs was not accounted for by the firm in the reconciliation statement given during the remand proceedings. However, we find that the same is also not factually correct. The assessee, in its reconciliation statement given to Ld. CIT(A), has reversed contract receipts of Rs.312.50 Lacs and added drawings of Rs.35.50 Lacs. The net difference is Rs.277 Lacs. In the statement given on 08.01.2020, the amount shown is Rs.275 Lacs and Rs.2 Lacs which totals to Rs.277 Lacs. Therefore, there is difference in presentation only but the net impact is the same.

9. Considering the facts and circumstances of the case, we find no reason to interfere in the impugned order.

10. The appeal stands dismissed.

Order pronounced on 12<sup>th</sup> August, 2022.

Sd/-  
(V. DURGA RAO)  
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-  
(MANOJ KUMAR AGGARWAL)  
लेखा सदस्य / ACCOUNTANT MEMBER

चेन्नई/ Chennai; दिनांक/ Dated : 12-08-2022

EDN

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त (अपील)/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF