

**IN THE INCOME TAX APPELLATE TRIBUNAL 'B(SMC)' BENCH: CHENNAI
(CAMP AT COIMBATORE)**

**श्रीएन.आर.एस. गणेशन, न्यायिकसदस्यकेसमक्ष
BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER**

**आयकरअपीलसं./I.T.A.No.1329/Chny/2019
(निर्धारणवर्ष / Assessment Year: 2007-08)**

Shri Durai Pugazhenth,
No.1/103, Brindavan Road,
3rd Cross, Fairlands,
Salem - 636 016.

Vs The Asst. Commissioner of
Income Tax,
Central Circle-3,
Salem.

PAN: AENPP 5237R

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by
प्रत्यर्थीकीओरसे/Respondent by

: Shri G.Baskar, Advocate
: Shri A.R.V. Sreenivasan, Addl. CIT

सुनवाईकीतारीख/Date of hearing : 03.02.2020
घोषणाकीतारीख /Date of Pronouncement : 03.02.2020

आदेश /O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

This appeal of the assessee is directed against the order passed by the Commissioner of Income Tax (Appeals)-16, Chennai dated 12.02.2019 and pertains to the assessment year 2007-08.

2. Shri G. Baskar, the Ld. Representative for the assessee submitted that the only issue arising in this appeal is confirming the

addition of Rs. 22,50,000/- u/s. 69B of the Income Tax Act, 1961 (in short 'the Act'). According to the Ld. Representative, there was a search at the premises of the assessee on 10.02.2012. During the course of search operation, an agreement of sale dated 09.01.2007 entered into between the assessee and one Mr. Pongopal was found. As per the agreement dated 09.01.2007, the assessee agreed to purchase 11 residential flats from Ponram Promoters for total consideration of Rs. 1,10,00,000/- and the assessee has paid Rs. 40,00,000/- as advance in cash. The Assessing Officer (AO) doubted the source of payment of Rs. 22.50 lakhs out of the advance of Rs. 40 lakhs. The assessee explained before the AO that a sum of Rs. 6.50 lakhs was received as advance in the year 2003. Another sum of Rs. 1 lakh was paid from the accumulative income of the earlier years the assessee has also have agricultural income from HUF to the extent of Rs. 8.50 lakhs. The assessee has received Rs. 6.50 lakhs from his wife from agricultural income. This explanation of the assessee was not accepted by the AO since there was a contradictory statement recorded u/s. 131(1A) of the Act. The assessee appears to have explained that the source for purchase of residential flat was from business and HUF income and wife's income therefore, the AO made an addition. Referring to the assessment order, the Ld. Representative

submitted that the assessee has explained the source for deposit therefore, there is no justification for making addition of Rs. 22.50 lakhs.

3. On the contrary, Shri A.R.V. Sreenivasan, the Ld. Departmental Representative submitted that the assessee has to establish the identity of creditors, the genuineness of the transaction and creditworthiness of the creditor. In this case, the assessee has explained the identity of the creditors however, the genuineness of the transaction was not established. The assessee could not even give the address of the creditors even though he claims that they are close relatives. Therefore, the Ld. CIT(A) was rightly confirmed the addition made by the AO.

4. Having heard the Ld. Representative for the assessee and the Ld. Departmental Representative, this Tribunal is of the considered opinion that the assessee has explained before the Assessing Officer, the source of deposit of Rs. 22.50 lakhs. The AO in fact reproduced the explanation of the assessee at para 6 of his order. Since, the AO doubts the genuineness of the transaction, the CIT(A) confirmed the addition made by the AO. It is not known how one could establish the agricultural income. In this country agriculture is an unorganized sector. Expecting evidence from the agriculturist for their agriculture income is something

impossible one. So long as the agriculture activity in this country is un-organized and it is sold in the un-regulated market, no one could establish the agriculture income. Moreover, the investment is only 22.50 lakhs. In the present economic scenario, which prevails in our country even a small agricultural labour would earn Rs. 500 to Rs. 1,000/- in day. A person employed in hair cutting shop or in road side restaurant also earn Rs. 1,000/- to 2,000/- per day. This economic factor cannot be doubted by anyone in this country. Taking into consideration of the economic situation prevails in the country, this Tribunal is of the considered opinion that there is no justification for making addition of Rs. 22.50 lakhs. Accordingly, the orders of both the lower authorities are set aside and the addition of Rs. 22.50 lakhs is deleted.

5. In the result, the appeal filed by the assessee stands allowed.

*Order pronounced in the open court on 03rd February, 2020 at Chennai
(Camp at Coimbatore).*

Sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिकसदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 03rd February, 2020.

EDN, Sr. PS

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

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