

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

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री जी मंजुनाथ लेखक सदस्य के समक्ष  
**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND**  
**SHRI G. MANJUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.2226/Chny/2019  
निर्धारण वर्ष /Assessment Year: 2010-11

**Smt. S.P. Jayam,**  
6A, Sellappam Patti Post,  
Namakkal – 637 019.  
**[PAN: AIDPJ 4433F]**

**The Income Tax Officer,**  
Ward-2,  
**Vs. Namakkal.**

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओर से /Respondent by

: Mr. K. Vishva Padmanabhan, C.A  
: Mr. Suresh Periasamy, JCIT

सुनवाई की तारीख/Date of Hearing

: 19.07.2021

घोषणा की तारीख /Date of Pronouncement

: 30.09.2021

**आदेश / ORDER**

**Per V. Durga Rao, Judicial Member:**

This appeal filed by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals), Salem in I.T.A No.159/2017-18 dated 25.06.2019 relevant to the Assessment Year 2010-11.

2. The brief facts of the case are that the A.O noticed from the AIR information that the assessee has made cash deposits amounting to Rs. 11,75,265/- in his savings bank account maintained with HDFC

Bank, Namakkal during the financial year 2009-10 relevant to the assessment year 2010-11. The assessee has not filed any return of income therefore, the A.O issued a notice u/s. 148 of the Income Tax Act, 1961 (hereinafter as "the Act") and completed the assessment u/s. 143 r/w. s. 147 of the Act. The A.O has considered the entire statement of the saving bank account and he has observed that the source of cash deposits amounting to Rs.8,33,755/- not explained by the assessee. In view of these, the sum of Rs.8,33,755/- being unexplained, unproven cash deposits is assessed as income and added to the income returned. The A.O further noted that the assessee has deposited an amount of Rs. 3,82,477/-. No explanation has given and the same has been construed as shortfall suppression of the commission and added to the total income of the assessee.

3. On appeal the Ld. CIT(A) called the remand report from the A.O and observed that the A.O has contended that the assessee has failed to produce any documentary evidence such as name and address of the parties to whom the raw-material was sold, the date of sale, quantum value of raw-material sold, to substantiate that the amount received by way of cheque by the assessee was paid out of the sale of poultry raw-materials. The A.O therefore concluded that the assessee could not substantiate the source towards claim of cash deposit of Rs.

8,33,755/- and therefore, the unproven cash deposit of Rs. 8,33,755/- is to be treated as an undisclosed income. The assessee has not filed any objections in respect of the remand report given by the assessee. Accordingly, addition was confirmed. So far as the addition in respect of Rs. 3,82,477/-, the Ld. CIT(A) has noted that the assessee has failed to prove any evidence to support her claim both during the assessment proceedings as well as remand proceedings therefore, this addition also confirmed.

4. On appeal before us, the Id. Counsel for the assessee has pointed out from the paper book at page No.2 that the assessee has received cash and payment also made to Vijeth Proteins. The total amount received by the assessee is at Rs.6,49,275/- and submitted that the same may be verified by the A.O. He further submitted that so far as other addition is concerned on 07.01.2010 the assessee has received a cheque from Kaliyannan Poultry Farm. On 09.01.2010 payment of Rs.3,20,046/- made to M/s. Mahavir Bansilal Jain vide cheque No.345237 and on 12.01.2010 payment of Rs. 26,396/- made to M/s. Naresh Brothers vide cheque No.345238 respectively and submitted that the issue may be remitted back to the A.O to examine receipts and payments made by the assessee.

5. On the other hand, the Ld. Departmental Representative did not raise any serious objection.

6. We have heard both the sides, perused the materials available on record and gone through the orders of the authorities below. The case of the A.O is that the assessee has failed to explain cash deposits made in the bank account and therefore, he added the entire deposits made by the assessee to the income of the assessee. The case of the assessee is that the assessee is in the poultry raw material business and whatever the amount received from the customers deposited in the bank account. Subsequently, the same is paid to the various parties from whom he has brought the raw material. So far as the addition in respect of Rs. 3,20,046/- is concerned, he submitted that the payment is received through cheque and payment is also made by cheque and submitted that these details are available in the paper book page-2 and submitted that the issue may be remitted back to the A.O to examine the entire issue *denovo*. We have gone through the paper book page-2 filed by the assessee and we are of the opinion that page-2 of the paper book is a material document it needs to be verified and has to be considered by the A.O. This material document was not before the A.O at the time of passing the assessment order therefore, in the interest of justice, we set aside the order passed by the Ld.

CIT(A) and remit the matter back to the A.O and direct the A.O to adjudicate the issue *denovo* in accordance with law by considering page-2 of paper book filed by the assessee. Accordingly, the appeal filed by the assessee is allowed for statistical purpose.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

*Order pronounced on 30<sup>th</sup> September, 2021 in Chennai.*

**Sd/-**  
(श्री जी मंजूनाथ)  
(G. MANJUNATHA)

लेखासदस्य/ACCOUNTANT MEMBER

**Sd/-**  
(वी दुर्गा राव)  
(V. DURGA RAO)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai, दिनांक/Dated: 30<sup>th</sup> September, 2021.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF