

आयकर अपीलीय अधिकरण, 'बी' न्याय पीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' BENCH, CHENNAI
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष
BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER
AND SHRI G. MANJUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No. 2531 / Chny/ 2018

(निर्धारण वर्ष / Assessment Year: 2014-15)

The Assistant Commissioner of Income Tax, Central Circle-1(3), Chennai.	Vs	M/s.Vendhar Movies 155, MGR Street, Saligrammam, Chennai-600 093.
		PAN: AAJPV 9814A
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mr. V.Vivekanandan, CIT
प्रत्यर्थीकीओरसे/ Respondent by	:	Mr. S.Sridhar, Advocate

सुनवाईकीतारीख/Date of hearing	:	06.04.2022
घोषणाकीतारीख/Date of Pronouncement	:	24.06.2022

देश / ORDER

PER G. MANJUNATHA, AM:

This appeal filed by the Revenue is directed against order of the learned Commissioner of Income Tax (Appeals)-18, Chennai, dated 31.05.2018 and pertains to assessment year 2014-15.

2. The Revenue has raised following grounds of appeal:-

"1. The order of the learned Commissioner of Income Tax(Appeals) is erroneous on facts of the case and in law.

2. The Id. CIT(A) erred in directing the AO to delete the addition made on the ground of undisclosed income to the tune of Rs. 7,00,00,000/- in the assessment order passed u/s.143(3) r.w.s. 153B(1)(b) of the I.T. Act on 31.03.2016.

The Id. CIT(A) ought to have appreciated the fact that the assessee had declared additional Income of Rs.7,0000,000/- over and above its regular income during the course of search

proceedings u/s.132 of the Income Tax Act, 1961 . the learned CIT(A) erred in allowing expenditure claimed in return of income by the assessee against said additional Income of Rs.7,0000,000/-.

2.3 The Id. CIT(A) ought to have appreciated the fact that the assessee had declared additional Income towards cost of purchase of movie. Therefore, expenditure becomes unexplained as per provisions of 69C of the Income Tax Act, 1961 and accordingly, said unexplained expenditure will be deemed to be income as the assessee shall not be allowed as deduction under any head of income as per proviso to section 69C of the Income Tax Act, 1961.”

3. The brief facts of the case are that a search and seizure operation u/s.132 of the Act was conducted in the SRM group of cases on 18th June 2013. As part of the search operation, the office premises of the assessee M/s. Vendor Movies was also searched. During the course of search, one notebook containing certain jotting seized. A statement was recorded from Sri B. Balagurunathan, one of the partners of the firm and in response to specific question, he had deposed that jotting is contained in the notebook pertains to unexplained expenditure incurred for the movie 'Thalaivaa' and further, he had agreed to offer a sum of Rs.7,00,00,000/- as additional income of the firm for the assessment year 2014-15. Consequent to search, the case has been taken up for scrutiny and during the course of assessment proceedings, it was noticed by the Assessing

Officer that although, the assessee had credited undisclosed income of Rs.7,00,00,000/- into the profit and loss account, but offset income against expenditure for subsequent period and has declared loss. Therefore, the assessee was called upon to explain the loss declared for the year after considering undisclosed income of Rs.7,00,00,000/-. The Assessing Officer, after considering relevant submissions of the assessee observed that although, the assessee has offered additional income of Rs.7,00,00,000/-, but debited various expenditure into income & expenditure for subsequent period, however failed to justify expenditure incurred for the subsequent period, therefore rejected arguments of the assessee and made additions of Rs.7,00,00,000/- to the total income.

4. Being aggrieved by the assessment order, the assessee filed an appeal before the learned CIT(A). Before the learned CIT(A) the assessee has filed various details, including financial statements to prove that the assessee has accounted and showed income in the books of accounts and considered for taxation. The learned CIT(A), after considering relevant submissions of the assessee and also taken note of various

evidences observed that the assessee has declared income of Rs.7,00,00,000/- in the profit and loss account. However, the assessee has shown loss, because it has incurred huge expenditure for the movie Thalaivaa in the subsequent period after the search which resulted in loss. The Assessing Officer without appreciating above facts simply made addition of Rs.7,00,00,000/-, even though the assessee had already included said income in the profit loss account. Hence deleted additions made by the Assessing officer. Aggrieved by the learned CIT(A) order, the Revenue is in appeal before us.

5. The learned DR submitted that the learned CIT(A) erred in deleting the addition of undisclosed income on the wrong assumption of fact that the assessee had included a sum of Rs.7,00,00,000/- in the profit loss account even though the assessee had adopted a method to nullify income declared during the course of search. The learned DR further submitted that additional income offered towards cost of purchase of movie becomes unexplained expenditure as per the provisions of section 69C of the Act and consequently, the said expenditure will be deemed to be the income of the assessee

and shall not be allowed as deduction under any head of income. The learned CIT(A) without appreciating facts simply deleted additions made by the AO.

6. The learned counsel for the assessee supporting order of the learned CIT(A) submitted that the assessee had offered undisclosed income for taxation and further explain the loss declared for the year with necessary evidences. The CIT(A), after considering relevant facts has rightly deleted additions made by the Assessing Officer and his order should be upheld.

7. We have heard both the parties and considered relevant materials on record. There is no dispute with regard to fact that the assessee had credited sum of Rs.7,00,00,000/- into the profit and loss account. In fact, the Assessing Officer himself had admitted fact that the assessee had included undisclosed income in the profit and loss account. However rejected arguments of the assessee only for the reason that said offer of undisclosed income is in addition to regular income or loss declared for the relevant assessment year. The Assessing Officer further was of the opinion that the assessee could not

substantiate the expenditure incurred for the subsequent period.

8. We have given our thoughtful consideration to the reasons given by the Assessing Officer in light of arguments of the counsel for the assessee and we ourselves do not subscribe to the reasons given by the Assessing Officer for the simple reason that once there is no dispute about additional income credited into the profit and loss account, then the Assessing Officer cannot make further addition on said undisclosed income merely for the reason that the assessee has incurred loss for the year even after undisclosed income of Rs.7,00,00,000/-. We further noted that the assessee has incurred huge expenditure for the movie Thalaivaa subsequent to the period of search. Further, additional income offered during the course of such is also on account of cost of purchase of movie Thalaivaa. Therefore, once income is credited to the profit loss account, corresponding expenditure relating to said income also needs to be debited into the profit loss account. In this case, the assessee has done exactly the same which resulted in loss for the year under consideration. In fact, the learned CIT(A) has considered detailed written

submissions filed by the assessee, including financial statements and observed that on the additional income offered during the course of search, the assessee has credited into books of accounts for the relevant financial year. The said findings of the CIT(A) goes uncontroverted. The revenue fails to bring on record any contrary evidences to counter the findings of fact recorded by the CIT. Therefore, we are of the considered view that there is no error in the reasons given by the learned CIT(A) to delete additions made towards undisclosed income found during the course of search. Hence, we are inclined to uphold order of the learned CIT(A) and dismiss appeal filed by the Revenue.

9. In the result, appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 24th June, 2022

Sd/-
(वी. दुर्गा राव)
(V.Durga Rao)
न्यायिक सदस्य /Judicial Member
चेन्नई/Chennai,
दिनांक/Dated 24th June, 2022
DS

Sd/-
(जी. मंजुनाथ)
(G.Manjunatha)
लेखा सदस्य /Accountant Member

आदेशकीप्रतिलिपिअद्योषित/Copy to:

- Appellant 2. Respondent 3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकरआयुक्ता/CIT 5. विभागीयप्रतिनिधि/DR 6. गार्डफाईल/GF.