

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

**माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा 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.405/Chny/2020**  
(निर्धारण वर्ष / **Assessment Year: 2013-14**)

<b>Shri K. Palanivel</b> Prop. Sri Thirumurugan Commission Mundy, Namagiripettai Rasipuram Tk., Namakkal – 637 406.	<b>बनाम/ Vs.</b>	<b>ITO</b> Ward-3, Namakkal.
स्थायी लेखा सं./जीआइ आर सं./ <b>PAN/GIR No. ARIPP-4756-H</b>		
(□ पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

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आयकर अपील सं./ **ITA No.668/Chny/2020**  
(निर्धारण वर्ष / **Assessment Year: 2013-14**)

<b>ITO</b> Ward-3, Namakkal.	<b>बनाम/ Vs.</b>	<b>Shri K. Palanivel</b> Prop. Sri Thirumurugan Commission Mundy, Namagiripettai, Rasipuram Tk., Namakkal – 637 406.
स्थायी लेखा सं./जीआइ आर सं./ <b>PAN/GIR No. ARIPP-4756-H</b>		
(□ पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओरसे/ <b>Appellant by</b>	:	Shri T.S.Lakshmi Venkatraman (FCA)-Ld. AR
प्रत्यर्थी की ओरसे/ <b>Respondent by</b>	:	Shri P. Sajit Kumar (JCIT)-Ld. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	01-07-2022
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	06-07-2022

**आदेश / ORDER****Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid cross appeals for Assessment Year (AY) 2013-14 arises out of the order of learned Commissioner of Income Tax (Appeals), Salem [CIT(A)] dated 11.12.2019 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s.143(3) of the Act on 31.03.2016. The assessee has filed revised grounds of appeal on 01.03.2022 which read as under:

1. The learned CIT (A) is not justified in partly allowing the appeal with respect to a total addition of Rs.5,07,19,000/- made by the AO u/s 143(3) of the IT Act.
2. The learned CIT(A) is not justified in adapting a rate of Rs.43.50 per Kg as the value of the stock of turmeric as on 31-03-2013. The AO has adapted a rate of Rs.65/- per kg as against the rate of Rs.39.36 per Kg taken by the appellant for the valuation of closing stock as on 31-03-2013.
3. The learned CIT (A) has not properly considered ground 3 of the appeal filed before him. If a proper view was taken as per ground 3 the entire addition made by the AO with respect to stock valuation would have been deleted.
4. The learned CIT(A) is not justified in sustaining addition of Rs.28,00,000/- in respect of credits in the name of Sri C. Elayappan to an extent of Rs.7,00,000/-, in the name of Sri R.Thangavel to an extent of Rs.14,00,000/-, in the name of Sri A.Ganapathy to an extent of Rs.7,00,000/- all totalling to Rs.28,00,000/- even though proper documentary evidences in the form of confirmation letters, transfer of funds by RTGS from the bank account of the creditors were filed before the lower authorities.
5. In view of the above grounds and other submissions to be made at the time of appeal hearing, the additions made by the AO and sustained to the above extent by CIT(A) may be deleted and justice rendered.

**The grounds raised by the revenue read as under: -**

1. The order of the CIT(A) is opposed to the facts of the case and not maintainable.
2. The CIT(A) failed to consider that the Assessing Officer had added the entire stock found at the time of survey because neither assessee nor Authorized Representative had not produced evidence for bought note purchases. During the course of assessment proceedings, the assessee and Authorized Representative were asked plenty of times to produce substantial evidences for bought note purchases. Since the suppliers (farmers) are well known to the assessee, the patta, chitta adangal of the farmers are called for. But, the assessee did not produce any evidence to prove

bought note purchase. Therefore while framing the assessment the Assessing Officer rightly added the entire stock treating it as unaccounted stock.

3. The CIT(A) is not justified in adopting value of closing stock at the rate of Rs.43.50/-per kg as against the value of stock adopted by the Assessing Officer at Rs.65/- per kg. The CIT(A) had fixed the cost of purchase of turmeric to Rs.43.50/- per kg from Rs.65/-per kg by taking into account that the assessee had purchased the turmeric directly from farmers and considering the other factors like commission, labour charges and transportation charges to the society. Even though considering these factors the CIT(A) had reduced the cost up to Rs.22.50/- per kg which is too high. Since the value of turmeric depends in the place of cultivation, the value adopted by the Assessing Officer at Rs. 65/-per kg is quite reasonable. Therefore the rate adopted by the CIT(A) is not acceptable.

As evident the sole subject of cross-appeal is addition arising on account of valuation of stock. The assessee is also aggrieved by confirmation of certain addition u/s 68.

2. The registry has noted a delay of 80 days in revenue's appeal, the condonation of which has been sought by the revenue on the strength of condonation petition which is accompanied by an affidavit of Ld. Income Tax Officer. It has been submitted that the delay occurred due to misplacement of records and the delay was unintentional. Considering the period of delay and in view of the fact that Ld. AR did not oppose the condonation, the delay is condoned and the appeal is admitted for adjudication on merits.

3. The Ld. AR advanced arguments to submit that the assessee followed consistently method of accounting to value the stock and the estimation made by Ld. CIT(A) was not sustainable under law. The Ld. AR also submitted that Ld. AO could not consider the source of the source to make additions u/s 68. To support the arguments, Ld. AR filed additional evidences and pleaded to consider the same while adjudicating the issues. The Ld. AR has filed written submissions as well as closing stock valuation in support of the arguments. The same has duly been considered while adjudicating the appeal.

The Ld. DR, on the other hand, submitted that valuation as done by Ld. AO was quite fair and the same was to be accepted. The Ld. Sr. DR submitted that the stock was a mixed stock and the valuation adopted by the assessee was not acceptable. Regarding addition u/s 68, Ld. DR submitted that the assessee could not file the requisite documents to support the credits in the books of accounts and therefore, the additions are justified.

Having heard rival submissions and after going through the orders of lower authorities as well as documents placed before us, our adjudication would be as under. The clarifications were sought which were duly responded to by both the sides.

### **Assessment Proceedings**

4.1 The assessee being resident individual is stated to be engaged in sale & purchase of turmeric. The return for the year was filed by the assessee on 31.10.2013 declaring income of Rs.13.77 Lacs. Consequent to survey action u/s 133A on 18.02.2013, the survey team found that the closing stock of turmeric worked out to 595790 Kilograms. The survey team valued the stock @Rs.150/- per Kg which worked out to be Rs.893.68 Lacs. The valuation rate was estimated rate without considering the purchase and sale bills since the assessee was maintaining bought-note bills for purchase and sale for turmeric business. However, the assessee did not concur with the valuation made by the survey team. During the course of assessment proceedings, the assessee could not furnish the requisite details of trade creditors & Loan creditors.

4.2 The Ld. AO noted that the assessee was maintaining bought-note bills for purchase and sale of turmeric business and claimed to have

made purchases from the farmers. During the course of assessment proceeding, the assessee was asked to produce evidences for bought-note purchases i.e., Patta, Chitta Adangal of the farmers. However, the assessee failed to do so. Accordingly, Ld. AO proceeded to work out the valuation of closing stock. In similar nature of case, Ld. AO had worked out average rate of 65/- per Kgs. which was on the basis of available bills for January and February. Since in the present case, no reliable bills were produced at the time of survey, the valuation was adopted as Rs.65/- per Kg which came to Rs.387.26 Lacs and the same was added in its entirety to the income of the assessee in the absence of bought-note purchase documents.

4.3 The Ld. AO also made additions of unexplained cash credit out of which creditors aggregating to Rs.28 Lacs are subject matter of assessee's appeal before us. The additions were made in the absence of any satisfactory evidences forthcoming from the assessee.

### **Appellate Proceedings**

5.1 During appellate proceedings, the assessee submitted that Ld. AO failed to consider the closing sock figure of Rs.186.43 Lacs as reflected by the assessee as well as sales effected by assessee to the extent of 273130 Kilograms for Rs.1540.90 Lacs after the date of survey (between 18.02.2013 to 31.03.2013). The assessee also submitted that payment for all the purchase was made through banking channels.

5.2 The submissions made by the assessee were subjected to remand proceedings. The relevant extract from the remand report has already been reproduced in the impugned order. During remand proceedings, the assessee furnished bought-notes and farmers' Patta, Chitta Adangal etc. The details of Turmeric Price per Kilogram during the period

01.04.2012 to 31.03.2013 were also called by Ld. AO from The Erode Agricultural Producers Co-op. Marketing Society Ltd.

5.3 It was noted by Ld. AO that the quantity on the date of survey was not in dispute but only the valuation was under dispute. The Ld. AO held an opinion that the rate stated by the assessee in the bought-note was far below than the prevailing rate at Erode which would imply that the rate stated in the bought note was not genuine. The assessee had closing quantity of 9166 Bags of 65 Kilograms each and it had sold 4202 bags post-survey i.e., between 19.02.2013 to 31.03.2013 leaving closing stock of 4964 bags. The same was valued at Rs.186.43 Lacs which on an average work out to Rs.58/- per Kilogram and therefore, the valuation of Rs.55/- per Kilogram as per the details submitted by the assessee from The Erode Agricultural Producers Co-operative Marketing Society Ltd. could not be considered. Finally, Ld. AO held that the valuation of Rs.65/- per Kilogram was quite reasonable. Regarding addition of sundry creditors / loan creditors, findings were rendered with respect to each of the creditors.

5.4 The assessee controverted the findings given in the remand report and submitted that actual stock on the date of survey was 11490 Bags. It was submitted that all the purchases were made from farmers only which were duly supported by bought-notes and the payments were through banking channels only. Therefore, the valuation was in order.

5.5 The Ld. CIT(A) noted assessee's submissions that the purchases were made from farmers only and duration of purchases was only 40 days i.e., from 01.07.2012 to 10.08.2012 as it was a seasonal crop. No purchase was made thereafter. At the time of survey, the assessee had closing stock of 11490 Bags as against 9166 Bags of stock as taken by

the survey team. Thus, there was a difference to the extent of 2324 bags.

5.6 Regarding valuation of Rs.65/- as proposed by Ld. AO, Ld. CIT(A) concurred with assessee's submissions that all the purchases were made from farmers and the payments were through banking channels only. The assessee had filed confirmations from the sellers as well as their bank statement and proof of their agricultural holdings. The assessee also paid cess of 1% for purchase so made. The bank statement of the assessee also confirmed the payments. Finally, the ground was partly allowed as under: -

10.4 It is evident from the submissions of the A.O. that the average selling price of the Co-operative Society, Erode ranges from Rs.52.37 to Rs.54.91. It is selling price only. The appellant has purchased the turmeric directly from farmers and also considering the other factors like commission, labour charges and transportation charges to the society, there will be a reduction of cost upto Rs.10 to the assessee. This fact is also supported by the payments made to the farmers through RTGS. Moreover, the appellant has sold turmeric at the rate of Rs.45 per kg. It may not be logic to fix higher purchase rate at Rs.65 per kg, when the sale value is only Rs.45. Hence, I direct the A.O. to adopt Rs.43.50 per kg as the value of the stock. Hence, grounds of appeal related to this issue are allowed.

10.5 From the submissions of the appellant and based on the remand report, the correct stock position on the date of survey is arrived as under:

Sl.No	Particulars	Quantity in bags	Quantity in Kgs
1.	Total purchase	11490	746850
2.	Less: Sales made to Nani Agro Food Pvt Ltd. Erode (Before survey)	1640	106600
3.	Stock available at the time of survey	9850	640250
4.	Less: Sales made after survey	4202	273130
5.	Closing Stock	5648	367120

10.6 Further, the assessee has argued in his submissions that the AO has added entire purchase value to the income returned by the appellant without deducting the value of sales made by the appellant and also the closing stock. This fact is seen from the assessment order also. This is not correct. I direct the A.O. to rework the addition after deducting the sale value and the closing stock value while giving appeal effect to this order. Hence, all the grounds of appeal related to this issue are allowed.

5.7 Subsequently, the appellate order has been rectified by Ld. CIT(A) u/s 154 on 18.02.2020 wherein the correct stock position is stated to be as under: -

Sl.No	Particulars	Quantity in bags	Quantity in Kgs
1.	Total purchase	13,130	8,53,450
2.	Less: Sales made to Nani Agro Food Pvt Ltd. Erode (Before survey)	1,640	1,06,600
3.	Stock available at the time of survey	11,490	7,46,850
4.	Less: Sales made after survey	4,202	1,51,060
5.	Closing Stock	7,288	4,73,720

Aggrieved as aforesaid the assessee as well as department is in further appeal before us.

### **Our findings and Adjudication**

6. Upon careful consideration of material fact, we find that the sole issue involved in the appeal is quantification and valuation of closing stock. The Ld. AO has proposed a valuation of Rs.65/- per Kg whereas Ld. CIT(A) has directed Ld. AO to adopt a rate of Rs.43.50 per Kg. The material on record would reveal that the assessee has purchased 13130 bags of turmeric of 65 Kg. each during the period 01.07.2012 to 10.08.2012. These are contained in 26 instances of purchase. The detail of the farmers as well as the rates at which these consignments have been purchased has been placed on page nos. 48 to 50 of the paper book. Upon perusal of the same, we find that the assessee has purchased 13130 Bags of 65 Kg. each for sum of Rs.360.96 Lacs at average rate of Rs.42.29 per Kilogram. The purchases are duly evidenced by bought-note as well as confirmations letters from the

sellers as filed by the assessee during remand proceedings. The payments to the farmers have been made through banking channels which are supported by the respective bank statements. All the said purchases have duly been verified during remand proceedings. Therefore, the quantity as well as the price at which the turmeric has been purchased by the assessee could not be doubted. In the remand report, it has already been accepted by Ld. AO that till the date of survey, the assessee had sold 1640 Bags and the closing stock as on the date of survey was 11490 Bags of 65 Kg. each. Post survey, the assessee has sold 4202 Bags leaving year-end closing stock of 7288 Bags of 65 Kg which has been valued by the assessee as under: -

No.	Date of Purchase	Closing Stock (Bags)	Closing Stock in Kg. (One Bag of 65 Kg each)	Amount (Rs.)	Rate per Kg
1	01.07.2012	610	39,650	12,20,000	30.769
2	01.07.2012	490	31,850	9,84,900	30.923
3	02.07.2012	590	38,350	11,80,000	30.769
4.	02.07.2012	610	39,652	12,26,100	30.923
5.	03.07.2012	480	31,200	9,55,200	30.612
6.	04.07.2012	520	33,800	10,40,000	30.769
7.	04.07.2012	253	16,445	5,06,000	30.769
8.	06.07.2012	610	39,650	15,25,000	38.462
9.	01.08.2012	520	33,800	16,64,000	49.231
10.	01.08.2012	450	29,250	13,95,000	47.692
11.	02.08.2012	400	26,000	13,60,000	52.308
12.	02.08.2012	480	31,200	15,84,000	50.769
13.	03.08.2012	510	33,150	16,32,000	49.231
14.	03.08.2012	430	27,950	13,33,000	47.692
15.	04.08.2012	335	21,775	10,38,500	47.692
		<b>7288</b>	<b>4,73,720</b>	<b>1,86,43,700</b>	<b>39.36</b>

Upon perusal of the same, it could be seen that the assessee has well defined closing stock valuation method and the valuation has been arrived at on the basis of cost of purchase. No infirmity has been alleged by Ld. AO in the aforesaid method of valuation. Therefore, there could

be no occasion for lower authorities to indulge in estimating the value of the closing stock. The estimation as proposed by Ld. AO and as partially confirmed by Ld. CIT(A) is not in accordance with law since the stock has to be valued on consistent method of accounting being followed by the assessee. The same is substantiated by the fact that during this year, the assessee has reflected Gross Profit (GP) & Net Profit (NP) rates of 11% & 7.22% respectively which is much better than the profit rates of 9.57% & 1.87% of immediately preceding AY 2012-13. If the addition as sustained by Ld. CIT(A) are upheld, the GP and NP rates would jump to 20.87% and 17.09% respectively which are quite unrealistic. The assessee has maintained complete quantitative details of the stock and the valuation has been arrived at on the basis of purchase price. No infirmity could be seen in the methodology of the assessee. Therefore, the stock valuation as reflected by the assessee at year-end was to be accepted. We order so. In the result, the revenue's appeal stand dismissed whereas the corresponding ground raised in assessee's appeal stands allowed.

7. The remaining issue in assessee's appeal is confirmation of addition of unexplained cash credit for Rs.28 Lacs as detailed below: -

No.	Name of Creditor	Amount (Rs.)
1.	Shri C.Elayappan	Rs. 7 Lacs
2.	Shri R.Thangavel	Rs. 14 Lacs
3.	Shri A. Ganapathy	Rs. 7 Lacs

The same has been confirmed for want of satisfactory evidences from assessee. Before us, the assessee has filed additional evidences to support these creditors. The lenders have also filed affidavit in support of the loans given to the assessee. It has been submitted by Ld. AR that all

the three creditors have filed confirmation letters along with identity proof, nature of crop cultivated by them on agricultural lands and copy of bank statements evidencing loans given by them to the assessee. It is the submissions of Ld. AR that the same has not been appreciated by lower authorities. Upon perusal of remand report as placed on record, we find that the assessee has filed confirmation letters, bank account statement of all these persons. The Ld. AO, upon verification, found that aforesaid lenders had granted loan to the assessee through bank by way of RTGS. The same has been detailed in the assessment order. The only allegation of Ld. AO is that there was a cash deposit of exact amount before transfer of funds to the assessee. Therefore, loan creditors did not have much source to extend the loans to the assessee. However, the said observation is merely an assumption. No efforts have been made by Ld. AO to confirm the transactions with the loan creditors and no adverse material has been brought on record. The assessee, in our considered opinion, has already placed on record sufficient documentary evidences to discharge the onus of establishing these loans. The burden was on Ld. AO to refute these evidences. However, nothing of that sort is shown to have been done. Another aspect is that Ld. AO, in terms of Sec.68, could not question the source of source and assume the loans to be the income of the assessee particularly when the requisite documents have been furnished by the assessee. Considering these evidences and on the facts and circumstances of the case, the addition as sustained in the impugned order to the extent of Rs.28 Lacs could not be upheld. By deleting the same, we allow the grounds raised by the assessee.

8. The revenue's appeal stand dismissed whereas the assessee's appeal stand allowed in terms of our above order.

Order pronounced on 06<sup>th</sup> July, 2022.

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

**Sd/-**  
**(MANOJ KUMAR AGGARWAL)**  
**लेखक सदस्य / ACCOUNTANT MEMBER**

चेन्नई / Chennai; दिनांक / Dated : 06-07-2022  
EDN/-

**आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded 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