

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

श्रीमहावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND**  
**SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकरअपील सं./ITA Nos.: 170 & 171/CHNY/2022

निर्धारण वर्ष / Assessment Year: 2010-11

&

आयकरअपील सं./ITA No.: 172/CHNY/2022

निर्धारण वर्ष / Assessment Year: 2011-12

**Shri Kathiravan Srinivasan,**  
No.274C, Thuraiyur Road,  
Perambalur – 621 212.

Vs **The DCIT,**  
Circle-1,  
Main Building, 2<sup>nd</sup> Floor,  
New No.44, Old No.4,  
Williams Road, Cantonment,  
Trichirapalli-620 001.

**PAN: AJSPK 6687Q**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri G. Baskar, Advocate  
: Shri Darzakhum Songate, CIT

सुनवाई की तारीख/Date of Hearing

: 18.10.2022

घोषणा की तारीख/Date of Pronouncement

: 23.12.2022

**आदेश /O R D E R**

**PER MAHAVIR SINGH, VP:**

These three appeals by the assessee are arising out of two different orders of the Commissioner of Income Tax (Appeals)-19, Chennai in ITA Nos.581 & 582/Chny/19-20 dated 03.03.2022. The assessments in ITA Nos.170 & 172/Chny/2022 were framed by the JCIT, Range 1, Trichy for the assessment years 2010-11 & 2011-12

u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide orders dated 31.03.2013 & 31.03.2014 respectively. The third appeal in ITA No.171/Chny/2022 is against the assessment order framed in consequence to revision order passed by PCIT u/s.263 of the Act and consequent order of the AO for the assessment year 2010-11 u/s.143(3) r.w.s. 263 of the Act dated 12.03.2015 passed by the DCIT, Circle-1, Trichy.

2. The first common issue in ITA No.170 & 172/Chny/2022 for the assessment year 2010-11 & 2011-12 as regards to the order of CIT(A) confirming the action of AO in upholding the addition made by AO on account of unexplained cash credit u/s.68 of the Act for an amount of Rs.7,56,74,000/- for assessment year 2010-11 and Rs.1,98,00,000/- for the assessment year 2011-12. The relevant grounds raised by assessee in assessment year 10-11 read as under:-

“2.1 The CIT(A) erred in upholding the addition of Rs.7,56,74,000/- as unexplained Cash Credits u/s.68 of the Income Tax Act.

2.2 The applicant having provided proper explanation and proof regarding the credits, the CIT(A) went wrong in confirming the addition made.

2.3 The appellant having submitted that the credits were loans received back, advanced earlier by him, the CIT(A) erred in rejecting the same based on assumptions and surmises. This makes the addition liable to be deleted in full.”

The relevant ground raised by assessee in assessment year 2011-12

read as under:-

2.1. The CIT(A) erred in upholding the addition of Rs.1,98,00,000/- as unexplained Cash Credits u/s, 68 of the Income Tax Act.

2.2. The appellant having provided proper explanation and proof regarding the credits, the CIT(A) went wrong in confirming the addition made.

2.3. The appellant having submitted that the credits were loans received back, advanced earlier by him, the CIT(A) erred in rejecting the same based on assumptions and surmises. This makes the addition liable to be deleted in full.

3. Brief facts are that the assessee is an individual and deriving

income from the following business and sources:-

- i. Dhanalakshmi Agencies – Running a Petrol Bunk
- ii. Sale proceeds on account of sale of Agricultural land owned by the assessee.
- iii. Maintaining a JCB and hiring it the same for rent
- iv. Dhanalakshmi Mini Bus – Doing transport business by way of maintaining two route buses and one spare bus at Perambalur
- v. Doing Dairy business at Perambalur
- vi. Deriving salary from Dhanalakshmi Chits (Pvt.) Ltd.,
- vii. Deriving Rental Income from residential house at Trichy
- viii. Interest income and income from other sources (Brokerage / Commission)

The AO noted the fact that the assessee has maintained detailed books of accounts for these lines of his business activities. The AO for assessment year 2010-11 noted that there is sudden increase in cash deposit on various dates during financial year 2009-10 relevant to this assessment year 2010-11 amounting to Rs.9.99 crores in the

current account of the assessee. The AO finally considered the explanation of the assessee as regards to the source of income and also other cash credits, added a sum of Rs.7,56,74,000/- claimed by assessee, the amount representing loan accounts received back from various persons i.e., sundry debtors living in and around Perambalur District as unexplained cash credit u/s.68 of the Act and added to the returned income of the assessee. For this, the AO recorded the findings as under:-

“After considering the submissions of the assessee’s A/R, it is pertinent to mention that the sources of Rs.2,42,26,000/- is accepted and the explanations for the sources of Rs.7,56,74,000/- are not acceptable in view of the following reasons:-

- i. the identity of the debtor is not proved
- ii. and their credit worthiness is not proved

However, it is pertinent to mention that though the assessee has given sufficient opportunity to prove the sources for claim of cash credits introduced in the current account of the assessee in the books of accounts of Dhanalakshni Mini Bus business, the assessee's A/R could not submit any proof/supporting documents in support of cash credits of Rs. 7,56,74,000/- Hence, in the absence of proper documentary evidences/proof, the balance unexplained cash credits of Rs. 7,56,74,000/- are treated as income of the assessee u/s 68 of the Income-tax Act, 1961 for the financial year 2009-10 relating to the assessment year 2010-11, After discussion with the assessee's A/R, the assessment is completed as under:

3.1 Similarly in assessment year 2011-12, the AO noticed that there are cash deposits in current account maintained in the books of Dhanalakshmi Agencies amounting to Rs.1,14,00,000/- on

various dates and another cash deposit in current account maintained with Dhanalakshmi Mini Bus to the extent of Rs.1,91,00,000/- crores during the financial year 2010-11. After considering the explanation of the assessee, accepted the explanation of the assessee to the extent of Rs.1,07,00,000/- and added the balance sum of Rs.1,98,00,000/- as unexplained cash credit u/s.68 of the Act. For this, the AO recorded his finding as under:-

“ For balance amount of Rs.1,98,00,000/-, the authorised representative furnished confirmation letter from various persons stating that Shri. S. Kathiravan used to lend money to the villagers for purchase of cow/ Buffalo and charge interest at the rate of 1% per month. The amount lent to the villagers was repaid during the year to a tune of Rs.94,00,000/-. The Inspector was deputed to enquire this also. On enquiry, the confirmation letters were not found genuine by the Inspector vide his report. Since the genuineness of the transaction is not proved by the authorised representative and those poor villagers have also denied any amount paid to the assessee, creditworthiness is also not proved. Hence this is remained unexplained and added back to the income returned u/s 68. Total addition on this from comes to Rs.94,00,000/-. The same was repaid while selling the milk by deducting the outstanding amount. So there was no bulk repayment during the Financial Year. Also capacity of agriculturist to give heavy amount in cash to the assessee is very much doubtful. If this kind of money is generated by agriculturist by selling live stock, all agriculturists will be very rich persons. But the situation is exactly opposite. All marginal farmers are not makingg any money from agricultural operations. Regarding the explanation of Rs.30,00,000/-, the authorised representative

submitted a confirmation letter from Ramesh stating that the person has repaid Rs.30,00,000/- out of the advance money received from the assessee towards sale of land. Due to non-materialization of this sale agreement, the same was returned to him. To verify the genuineness of this, the Inspector was deputed to enquire into this matter from Shri Ramesh. The address given in the letter was found not proper and hence the same could not be verified. Since to prove the genuineness and creditworthiness of the cash credit is onus on the assessee, the same is treated unexplained u/s 68 and added back to the income returned. For the balance amount of Rs.74,00,000/- the assessee furnished explanation without any evidence or confirmation letter that too at the fag end of the year i.e 28/03/2014 giving no time to the department to verify the genuineness of the receipts and hence the source of Rs.74,00,000/- is not accepted and added back to the income returned u/s 68. Therefore total addition u/s 68 comes to Rs.1,98,00,000/-.

Aggrieved, in both the years, the assessee came in appeal before the CIT(A).

4. The CIT(A) after considering the submissions of the assessee, remand report submitted by the assessee, paper book and other evidences filed by the assessee confirmed the action of the AO by observing in para 6.1 to 6.3 of his order for assessment year 2010-11 as under:-

6.1 While going through the affidavit and confirmation letters submitted by the appellant, I am of the view that all the papers were meticulously prepared in a mechanical way just as a evidence rather than bringing the

true affairs of the event. No prudent person will believe that such loans were advanced without any guarantee or mortgage of any property. It may be appreciated that the lands at Perambalur District are not so fertile as in the case of Tanjore delta. If the contention of the appellant is acceptable, all the land owners who are doing agricultural activity at Perambalur District must be millionaire by this point of time. It is beyond imagination the debtors have repaid the loan by single installment by doing dairy activity with small number of cows and holding of small portions of agricultural dry land. The value of the land at Perambalur District would have been in crores of rupees when the agriculturists were able to repay the loan by single installment in lakhs. However, value of dry land at Perambalur District is only a few thousands rupees. In view of this, the contention of the appellant that the amount represents being the recovery of earlier debts is not acceptable.

6.2 The AO has brought out clearly that the persons said to have been received the loan from the appellant are persons of meagre means. It is considered that the report of the AO is crystal clear about the transactions upon which the loan amount was received is only a bogus claim and it is the method adopted by the appellant to bring his own unaccounted cash into main stream.

6.3 In this background, the grounds raised by the appellant upon this issue is hereby dismissed and the addition made was of Rs.7,56,74,000/- as per the order dt. 31.3.2013 w/s 143(3) of the Act and the addition of Rs. 1,72,127/- (which has been admitted by the appellant as unexplained) as per the order dated 12.3.2015 u/s 143(3) rws 263 of the Act are sustained.

Similarly for assessment year 2011-12, the CIT(A) confirmed the addition by observing in para 5.8 to 5.10 as under:-

5.8 While going through the details submitted by the appellant, I am of the view that all the papers were meticulously prepared in a mechanical way just as a evidence rather than bringing the true affairs of the event. No prudent person will believe that such loans were advanced without any guarantee or mortgage of any property. It may be appreciated that the lands at Perambalur District are not so fertile as in the case of Tanjore delta. If the contention of the appellant is acceptable, all the land owners who are doing agricultural activity at Perambalur District must be millionaire by this point of time. It is beyond imagination the debtors have repaid the loan by single instalment by doing dairy activity with small number of cows and and holding of small portions of agricultural dry land. The value of the land at Perambalur District would have been in crores of rupees when the agriculturists were able to repay the loan by single instalment in lakhs. However, value of dry land at Perambalur District is only a few thousands rupees. In view of this, the contention of the appellant that the amount represents being the recovery of earlier debts is not acceptable.

5.9 The AO has brought out clearly that the persons said to have been received the loan from the appellant are persons of meagre means. It is considered that the report of the AO is crystal clear about the transactions upon which the loan amount was received is only a bogus claim and it is the method adopted by the appellant to bring his own unaccounted cash into main stream.

5.10 In this background, the grounds raised by the appellant upon this issue are hereby dismissed and the addition made u/s.68 of Rs.1,98,00,000/- are sustained.

Aggrieved, in both the years, the assessee came in appeal before the Tribunal.

5. We have heard rival contentions and gone through facts and circumstances of the case. We have also perused the paper-book filed by assessee consisting of 1 to 345 pages and another paper-book consisting of pages 1 to 68. The assessee is an individual and deriving income from various business as enumerated by us in para 3 of this order like running petrol bunk, agricultural income, rent from hiring of JCB, doing transport business, diary business, salary from chit fund company, rental income and interest income, etc. The assessee maintained separate books of accounts for all lines of business. The assessee before AO produced complete bills and vouchers in both the assessment years and AO test checked the same as noted by him in the assessment orders. The AO noticed that there is cash credit deposit in the books of accounts of Dhanalakshmi Mini Bus i.e., transport business of the assessee during the financial year 2009-10 relevant to assessment year 2010-11, a sum of Rs.9.99 crore. Out of this, the AO treated the sum of Rs.7,56,74,000/- as unexplained cash credit u/s.68 of the Act. The explanation of the assessee was that he lends money to small land owners, farmers, cattle owners and other local people in and around Perambalur Village at interest in earlier years and earning interest income also. The Id.counsel for the assessee before us as well as before CIT(A) took this stand that this advancing of small amount of

loans for practically all purposes as required by the people in and around Perambalur village is being carried out from very long time. For this, Id.counsel before us argued that the interest income is disclosed for last many years. It was claimed that the said hand loans were given to the locals and shown as sundry debtors in the financials. The Id.counsel for the assessee took us through the financials included the sundry debtors lists for assessment year 2007-08, 2008-09, 2009-10 & 2010-11 amounting to Rs.14,75,05,000/-, Rs.13,52,55,000/-, Rs.13,36,55,000/- & Rs.10,04,98,432/- respectively. To prove this, the assessee filed complete details before AO, before CIT(A) and now before us in his paper-book, wherein complete detail of parties which got verified by AO vide letter No.N.K.A1/2032/2017 dated 19.06.2017 giving the names of these persons, the Tahsildar after verification has given the detailed report, which is enclosed in assessee's paper-book at pages 332 to 345, which is being reproduced as under:-

REMAND REPORT ON SUNDRY DEBTORS ON THE BASIS OF REPORT RECEIVED FROM THASILDHAR, PERAMBALUR

<b>S. No.</b>	<b>Name and address of the debtor/Sl. NO. of the debtor in the list of 160 debtors</b>	<b>Landholding in hectare</b>	<b>Income from Agri. Land</b>	<b>Income from cow breeding</b>	<b>Total Income per annum</b>	<b>Amount claimed to have been borrowed and repaid to Karthiravan</b>	<b>Remarks of the A.O</b>
1.	C. Karunanidhi(9)	1.21	80,000	1,00,000	1,80,000	3,00,000/-	<p>Average annual income is onlyRs. 1,80,000/-. In the statement before the Thasildar, he has submitted that he has repaid the loan out of savings from the above income after meeting the family expenses, The size of the family, the average monthly expenses of the family, the expenses for untoward happenings in the family would definitely be bound to be there, which should have been met from this income only. Also expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income is only Rs. 15000/- Out of this income hand to mouth existence would have been difficult, leave alone paying back the debt in lump sum amounting to Rs. 3,00,000/-</p> <p>Also, in the letter addressed to the Assessing Officer, this person has claimed to have obtained land in 2001 from Mr.Kathiravan whereas in the statement before the Thasildar, he has deposed that the loan has been obtained in 2002. There is contradiction in the statement of this person.</p>

2.	P. Senthilkumar/(12)	0.43	50,000/-	1,250,000	1,75,000	4,75,000	As stated in sl. no. 1, the average annual income is only Rs. 1,75,000/- which has to take care of his family, other expenses and untoward expenses. Also expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only. After meeting all, this the probability of repaying Rs. 4,75,000/- out of savings is remote.
3.	P. Sathiyaseelan (13)	-	60,0000/-	1,00,000	1,60,000	3,50,000	There is no land holding. The labour charges claimed to have been earned by him is of course without any evidence and so also for earning from cow breeding. The size of the family, the expenses for untoward happenings in the family would definitely be bound to be there, which should have been met from this income only. Also expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only. The quantum of Rs. 3,50,000/- claimed to have been repaid in 2009 out of this meagre earnings is not feasible. Here also, before the A.O., the year of obtaining loan has been stated as 2003 in the letter submitting by this person, whereas before the Thasildar, the year of obtaining loan has been given as 2002.

4.	P. Ganesan (14)	0.47	60,000	1,00,000	1,60,000	4,00,000	<p>From the meagre land holding and cow breeding, this person claims to have earned Rs. 1,60,000/- per annum which means a monthly income of Rs. 13,300/-. From this petty amount, he claims to have taken care of his family expenses, other expenses and over and above that has claimed to have made savings and repaid a sum of Rs. 4,00,000/-. Also expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.</p> <p>Here again, before the A.O., the year of obtaining loan has been stated as 2003 in the letter submitting by this person, whereas before the Thasildar, the year of obtaining loan has been given as 2002.</p>
5.	N. Mani (23)	0.10	55,000	1,00,000	1,55,000	4,00,000	<p>This person has only 0.10 cents of land holding. Again from the quantum of annual income of Rs.1,55,000/- (monthly income works out to less than Rs. 13,000) this persons claims to have repaid Rs. 4,00,000/- out of his savings, after meeting his household expenses, medical expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.</p> <p>Before the A.O., the year of obtaining loan has been stated as 2004 in the letter submitted by this person, whereas before the Thasildar, the year of obtaining loan has been given as 2002.</p>

6.	N. Ambekar (27)	-	50,000	1,00,000	1,50,000	4,00,000	There is no land holding. The labour charges claimed to have been earned by him is of course without any evidence and so also for earning from cow breeding. This person claims to have repaid Rs. 4,00,000/- out of his savings, after meeting his household expenses, medical expenses and other incidental expenses. Also expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.
7.	D. Venkatesan (59)	0.60	40,000	1,00,000	1,40,000	3,50,000	From the meagre land holding and cow breeding, this person claims to have earned Rs. 1,40,000/- per annum which means a monthly Income of Rs.11,600/-. From this petty amount, he claims to have taken care of his family expenses and other expenses and over and above that has claimed to have made savings and repaid a sum of Rs. 3,50,000/-. Also expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only. Before the A.O., the year of obtaining loan has been stated as 2003 in the letter submitted by this person, whereas before the Thasildar, the year of obtaining loan has been given as 2002.
8.	S. Jaisankar(60)	0.99	60,000	1,00,000	1,60,000	4,00,000	Average annual income is only Rs. 1,60,000/-. In the statement before the Thasildar, he as submitted that he has repaid the loan out of savings from the above income after meeting the family expenses. The size of the family, the average monthly expenses of the family, the expenses for untoward happenings in the family

							would definitely be bound to be there, which should have been met from this income only/-. Also expenses for medical expenses also would have been from this income is only Rs.13,300./- Out of this income hand to mouth existence would have been difficult, leave alone paying back the debt in lump sum amounting to Rs. 4,00,000/-.
9.	R. Dhanalaskhmi (65)	-	-	1,50,000	1,50,000	4,25,000	There is no land holding. The earning from cow breeding is without any evidence. The size of the family, the average monthly expenses of the family, the expenses for untoward happenings in the family would definitely be bound to be there, which should have been met from this income only. Also expense for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only. the quantum of Rs. 4,25,000/- claimed to have been repaid in 2009 out of this meagre earnings is not practically feasible. .
10.	R. Selvaraj (67)	1.71	50,000	1,00,000	1,50,000	4,00,000	From the meagre land holding and cow breeding, this person claims to have earned Rs. 1,50,000/- per annum which means a monthly income of Rs. 12,500/-. From this petty amount, he claims to have taken care of his family expenses and other expenses and over and above that has made savings and repaid a sum of Rs. 4,00,000/-. Also expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.

11.	A. Kanagaraj (72)	-	50,000	1,00,000	1,50,000	4,00,000	There is no land holding. The earning from cow breeding is without any evidence. For the labour charges of Rs. 50,000/- also there is no proof. This person claims to have earned Rs. 1,50,000/- per annum which means a monthly income of Rs. 12,500/-. From this petty amount, he claims to have taken care of his family expenses and other expenses and over and above that has made savings and repaid a sum of Rs. 4,00,000/-. Also expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.
12.	A.Selvakumar	-	-	1,70,000	1,70,000	4,00,000	There is no land holding. The earning from cow The quantum of Rs. 4,00,000/-claimed to have been repaid in 2009 out of this meagre earnings of Rs. 1,70,000/- has to be examined.
13.	M. Kulandayi (80)	-	-	1,00,000	1,00,000	2,00,000	There is absolutely no income from agriculture. For cow breeding, there is no evidence. under the circumstances, out of Rs. 1,00,000/- average annual income, which means monthly income of less than Rs.9,000/- this person claims to have repaid Rs. 2,00,000/- out of her savings after meeting all her expenses for livelihood and other incidental expenses. Also expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.
14.	C. Jayaraman (87)	2.10	60,000	1,00,000	1,60,000	4,00,000	Average annual income is only Rs. 1,60,000/-. In the statement before the Thasildar, he as submitted that he has repaid the loan out of savings from the above income after meeting

							the family expenses. The size of the family, the average monthly expenses of the family, the expenses for untoward happenings in the family would definitely be bound to be there, which should have been met from this income only/-. Also expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income is only Rs.13,300/- Out of this income hand to mouth existence would have been difficult, leave alone paying back the debt in lump sum amounting to Rs. 4,00,000/-. Before the A.O., the year of obtaining loan has been stated as 2003 in the letter submitted by this person, whereas before the Thasildar, the year of obtaining loan has been given as 2002.
15.	R. Sevaraj (92)	1.41	50,000	1,00,000	1,50,000	3,50,000	From the meagre land holding and cow breeding, this person claims to have earned Rs. 1,50,000/- per annum which means a monthly income of Rs. 12,500/-. From this petty amount, he claims to have taken care of his family expenses and other expenses and over and above that has made savings and repaid a sum of Rs. 4,00,000/-. Also expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.
16.	S. Sakthivel (5)	1.18	1,00,000	2,00,000	6,00,000		From the meagre land holding and cow breeding, this person claims to have earned Rs. 2,00,000/- per annum which means a monthly income of Rs. 16,600/-. From this petty amount, he claims to have taken care

							of his family expenses and other expenses and over and above that has claimed to have made savings and repaid a sum of Rs. 6,00,000/-. Also expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.
17.	V. Vijayakumar (103)	0.60	1,00,000	1,00,000	2,00,000	4,00,000	From the meagre land holding and cow breeding, this person claims to have earned Rs. 2,00,000/- per annum which means a monthly income of Rs. 16,600/-. From this petty amount, he claims to have taken care of his family expenses and other expenses and over and above that has made savings and repaid a sum of Rs. 4,00,000/-. Also expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.
18.	R. Manoharan(111)	-	70,000	1,00,000	1,70,000	4,00,000	There is no land holding. The labour charges claimed to have been earned by him is of course without any evidence and so also for earning from cow breeding. From this petty amount, he claims to have taken care of his family expenses and other expenses and over and above that has made savings and repaid a sum of Rs. 4,00,000/-. Also expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.
19.	R. Vijayakumar (114)	1.21	90,000	1,00,000	1,90,000	4,00,000	From the meagre land holding and cow breeding, this person claims to have earned Rs. 1,90,000/- per annum which means a monthly income of Rs. 15,830/-. From

							<p>this petty amount, he claims to have taken care of his family expenses and other expenses and over and above that has made savings and repaid a sum of Rs. 4,00,000/-. Also expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.</p> <p><b>Before the A.O., the year of obtaining loan has been stated as 2003 in the letter submitted by this person, whereas before the Thasildar, the year of obtaining loan has been given as 2002.</b></p>
20.	M. Senthil (123)	2.95	1,00,000	4,50,000	5,50,000	30,00,000	<p>This person claims agricultural income of Rs. 1,00,000/- and Rs. 4.5 lakhs from cow breeding. From this total earning of Rs. 5.5 lakhs, he has stated that after meeting all the expenses including the incidental expenses, has repaid Rs. 30 lakhs in 2009 to the Assessee. The amount is almost six times his average earnings. Also expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.</p>
21	P. Paneerselvam (124)	0.42	1,00,000	5,00,000	6,00,000	25,00,000	<p>In this case also, earnings per annum is only Rs.6,00,000/-. Whereas he claims to have repaid Rs.25,00,000/- in 2009 to the assessee. The assessee in his statement before the Thasildar has submitted that he has repaid the said amount out of his savings. Also expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.</p>
22	K. Sivalingam (125)	0.44	1,00,000	4,00,000	5,00,000	30,00,000	<p>This person claims agricultural income of</p>

							Rs.1,00,000/- and Rs.4.5 lakhs from cow breeding. From this total earning of Rs.5.5 lakhs, he has stated that after meeting all the expenses including the incidental expenses, has repaid Rs.30 lakhs in 2009 to the assessee. The amount is almost six times his average earnings. Also expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.
23	S. Alagappan (126)	0.55	5,00,000	4,50,000	5,00,000	26,00,000	This person has merge agricultural income and claims Rs.4.5 lakhs from cow breeding, for which no evidence can be produced. From this total earning of Rs.5 lakhs, he has stated that after meeting all the expenses including the incidental expenses, has repaid Rs.26 lakhs in 2009 to the assessee. The amount is more than five times his average earnings. Also expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.
24	P. Duraisamy (151)	1.96	3,00,000	5,00,000	8,00,000	40,00,000	Out of earning of Rs.8 lakhs per annum, this person has submitted that he has repaid Rs.40,00,000/- in one go in the year 2009. From
39	M.Chitra (91)		60,000	1,10,000	1,70,000	4,00,000	There is land holding. The labour charges claimed to have been earned by him is ofcourse without any evidence and so also for earning from cow breeding. From this petty earnings of Rs. 1,70,000/-, he claims to have taken care of his family expenses and other expenses and over and above that has claimed to have made savings and repaid a sum of Rs.4,00,000/-. Also, expenses for maintenance of the cows like

							fodder expenses, medical expenses also would have been met from this income only.
40	K. Karthik(137)		----	1,20,000	1,20,000	2,00,000	There is no land holding. This person earns from a Private Company and has no connection with agriculture. From this petty earnings of Rs.1,20,000/-, he claims to have taken care of his family expenses and other expenses and over and above that has claimed to have made savings and repaid a sum of Rs.2,00,000/-. Also, expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.
41	T.Karthikeyan(122)		----	1,40,000	1,40,000	2,00,000	There is no land holding. This person earns from a Private Company and has no connection with agriculture. From this petty earnings of Rs.1,40,000/- , he claims to have taken care of his family expenses and other expenses and over and above that has claimed to have made savings and repaid a sum of Rs.2,00,000/-. Also, expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.
42	M.Rajamani(17)		1,50,000	----	1,50,000	3,25,000	There is no land holding. This person earns from a Private Company and has no connection with agriculture. From this petty earnings of Rs.1,50,000/-, he claims to have taken care of his family expenses and other expenses and over and above that has claimed to have made savings and repaid a sum of Rs.3,25,000/-

43	E.Dayalan(150)			1,50,000	1,50,000	2,00,000	There is no land holding. This person earns from a private company and has no connection with agriculture. From this petty earnings of Rs.1,50,000/-, he claims to have taken care of his family expenses and other expenses and over and above that has claimed to have made savings and repaid a sum of Rs.2,00,000/-
44	P.Appuli(54)		60,000	1,40,000	2,00,000	4,00,000	There is no holding. Whatever income given is only labour charges received. There is no evidence to prove the same. The quantum of Rs.3,25,000/- claimed to have been repaid in 2009 out of this meager earnings after meeting out his family expenses and other expenses. Also, expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.
45	R.Ramalingam(38)	0.56	60,000	1,10,000	1,70,000	4,00,000	From the meager land holding and cow breeding, this person claims to have earned Rs.1,70,000/- per annum which means a monthly income of Rs.14,000/-. From this petty amount, he claims to have taken care of his family expenses and other expenses and over and above that has claimed to have made savings and repaid a sum of Rs.4,00,000/-. Also, expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.
46	P.Lakshmi(5)	1.57	60,000	1,00,000	1,60,000	4,00,000	From the meagre land holding and cow breeding, this person claims to have earned Rs.1,60,000/- per annum which means a monthly income of Rs.14,000/-. From this petty amount, he claims to have taken care of his

							family expenses and other expenses and over and above that has claimed to have made savings and repaid a sum of Rs.4,00,000/-. Also, expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.
47	K.Kathavarayan(51)	0.23	60,000	1,10,000	1,70,000	4,00,000	From the meagre land holding and cow breeding, this person claims to have earned Rs.1,70,000/- per annum which means a monthly income of Rs.14,000/-. From this petty amount, he claims to have taken care of his family expenses and other expenses and over and above that has claimed to have made savings and repaid a sum of Rs.4,00,000/-. Also, expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.
48	K.Angammal(39)	1.67	90,000	1,00,000	1,90,000	4,00,000	This also is like the case of other persons, with the repayment being double the earnings. Repayment out of savings after meeting all the expenses is without proof. Also, expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.
49	C.Palaniammal(109)		60,000	1,40,000	2,00,000	6,25,000	There is no land holding. Whatever income given is only labour charges received. There is no evidence to prove the same. Also there is no proof for earnings from cow breeding. Further, expenses for maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only, other than meeting his routine family expenditure.

							The quantum of Rs.6,25,000/- is claimed to have been repaid in 2009 out of this meagre earnings after meetings all the above expenditure.
50.	N. Lakshmanan (41)	0.81	60,000	1,00,000	1,60,000	4,00,000	From the meagre land holding and cow breeding, this person claims to have earned Rs. 1,60,000/- per annum which means a monthly income of Rs. 4,00,000/-. From this petty amount, he claims to have taken care of his family expenses and other expenses and over and above that has made savings and repaid a sum of Rs. 4,00,000/-.Further expenses for maintaining the cows like fodder expenses, medical expenses also would have been met from this income only.
51.	V. Rengaraj (8)	0.61	60,000	1,00,000	1,60,000	4,00,000	From the meagre land holding and cow breeding, this person claims to have earned Rs. 1,60,000/- per annum which means a monthly income of Rs. 4,00,000/-. From this petty amount, he claims to have taken care of his family expenses and other expenses and over and above that has made savings and repaid a sum of Rs. 4,00,000/-.
52.	M. Marudhamuthu (7)	0.61	50,000	1,00,000	1,50,000	4,00,000	From the meagre land holding and cow breeding, this person claims to have earned Rs. 1,60,000/- per annum which means a monthly income of Rs. 4,00,000/-. From this petty amount, he claims to have taken care of his family expenses and other expenses and over and above that has made savings and repaid a sum of Rs. 4,00,000/-. Also expenses for

							maintenance of the cows like fodder expenses, medical expenses also would have been met from this income only.
53.	T. Muthukannu (4)	-	-	-	-	-	The person has not source of earning. The person has deposed before the Thasildar that he has neither received any money nor returned any money from and to Mr.Kathiravan The Person has n source of earning. The person has deposed before the Thasildar that he has neither received any money nor returned any money from and to Mr.Kathiravan.
54.	V. Devi(113)	-	60,000	90,000	1,50,000	4,00,000	There is no land holding. Whatever income given is only labour charges received. There is no evidence to prove the same. The quantum of Rs. 4,00,000/- is claimed to have been repaid in 2009 out of this meagre earnings, after meeting regular expenses of the family, medical expenses and any other untoward expenses, Further expenses for maintaining the cows like fodder expenses, medical expenses also would have been met from this income only.

5.1 Even, both the remand reports of the AO supported by the Tahsildar i.e., Revenue District Collector, Perambalur dated 19.06.2017 and 30.06.2017 verifying the details of all the persons to whom the assessee has advanced money, which was returned by these persons including their sources of income and ownership of land holding is confirmed by the Tahsildar which are enclosed by assessee at pages 322 to 325, 326 to 329 and 330 to 331, those are being reproduced as it is:-

*From*  
*Mr. S. Balakrishnan, M.A.,*  
*Revenue District Collector,*  
*Perambalur.*

*To*  
*Assistant Commissioner,*  
*Income Tax Department,*  
*Williams Road, Cantonment,*  
*Tiruchirappalli - 620 001.*

*N.K.A1/2032/2017 Dated: 19.06.2017*

*Sir,*

*Subject-*

***Income Tax- Perambalur District- Perambalur Circle- Perambalur (South) Village – Kathiravan (Mr) C request for Statement of Income – Regarding.***

***Reference-1) Tiruchirappalli Deputy Commissioner of Income Tax Department call dated 11.05.2017.***

***2) Perambalur District Commissioner's letter No.K.A1/2032/2017 dated 15.05.2017.***

***3) Invitation letter of Assistant Commissioner of Income Tax, Tiruchirappalli dated 11.05.2017.***

***4) Perambalur District Collector's letter No.A1/2032/2017 dated 19.05.2017 and 04.06.2017.***

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*In the summons found in the view (1) of Deputy Commissioner of Income Tax, Tiruchirappalli, Mr.Seenivasan's son Katiravan, resident of village Perambalur*

(South), Perambalur Circle, has been requested to send the details of land and income of 159 persons based on the report filed in the Income Tax Department.

Accordingly, the details regarding the income of the persons in Perambalur circle for the period from 2002 to 2010 are revealed from the following persons.

W. No	Name and Address	Capturing of land (Hectare)	Annual Income from Land (Rs)	Income from dairy Cow (Rs)	Gross Income (Rs)
1.	Mr. C. Karunanidhi (9) S/o. Chinnayan, Pudhunaduvalur Village, Perambalur Circle.	1.21.0	80,000	1,00,000	1,80,000
2.	Mr. P. Senthilkumar, (12) S/o. Paramasivam Pudhunaduvalur Village, Perambalur Circle.	0.43.0	50,000	1,25,000	1,75,000
3.	Mr. P. Sathyaseelan (13) S/o. Periyasamy Pudhunaduvalur Village, Perambalur Circle.	-	60,000 (Agricultural Wages)	1,00,000	1,60,000
4.	Mr. P. Ganesan (14) S/o. Ponnusamy Pudhunaduvalur Village, Perambalur Circle.	0.47.0	60,000	1,00,000	1,60,000
5.	Mr. N. Mani (23) S/o. Nallusamy Pudhunaduvalur Village Perambalur Circle.	0.10.0	55,000 (Agricultural Wages)	1,00,000	1,55,000
6.	Mr. N. Ambedkar (27) S/o. Nallusamy Pudhunaduvalur Village Perambalur Circle.	-	50,000 (Agricultural Wages)	1,00,000	1,55,000
7.	Mr.D. Venkatesan (59) S/o. Durairaj Pudhunaduvalur Village Perambalur Circle.	0.60.0	40,000	1,00,000	1,40,000
8.	Mr. S. Jeysankar (60) S/o. Solaimuthu Mettur Village Pudhunaduvalur Perambalur Circle.	0.99.0	60,000	1,00,000	1,60,000
9.	Mrs.R.Dhanalakshmi (65) D/o. Rajangam Alambadi Village Perambalur Circle.	-	-	1,50,000	1,50,000
10.	Mr. R. Selvaraj (67) S/o. Ramasamy Pudhunaduvalur Village Perambalur Circle.	1.71.5	50,000	1,00,000	1,50,000

11.	Mr. A. Kanagaraj (72) S/o. Appavu Pudhunaduvalur Village Perambalur Circle	-	50,000 (Agricultural Wages)	1,00,000	1,50,000
12.	Mr. A. Selvakumar (75) S/o. Appavu Pudhunaduvalur Village Perambalur Circle.	-	-	1,70,000	1,70,000
13.	Mrs. M. Kulundhayi (80) W/o. Mamundi Mettur Pudhunaduvalur Village Perambalur Circle.	-	-	1,00,000	1,00,000
14.	Mr. C. Jeyraman (87) S/o. Chikkakavundar Mettur Pudhunaduvalur Village Perambalur Circle.	2.10.5	60,000	1,00,000	1,60,000
15.	Mr. R. Selvaraj (92) S/o. Rasu Pudhunaduvalur Village Perambalur Circle.	1.41.0	50,000	1,00,000	1,50,000
16.	Mr. S. Shakthivel (95) s/o. Subhramani, Pudhunaduvalur Village Perambalur Circle.	1.18.0	1,00,000	1,00,000	2,00,000
17.	Mr. V. Jeyakumar (103) S/o. Veerappan Pudhunaduvalur Village Perambalur Circle.	0.60.5	1,00,000	1,00,000	2,00,000
18.	Mr. R. Manogaran (111) S/o. Rengaraj Pudhunaduvalur Village Perambalur Circle	-	70,000 (Agricultural Wages)	1,00,000	1,70,000
19.	Mr. R. VijayaKumar (114) S/o. Rasu Pudhunaduvalur Village, Perambalur Circle.	1.21.0	90,000	1,00,000	1,90,000
20.	Mr. M. Senthil (123) S/o. Manikkam Pudhunaduvalur Village Perambalur Circle.	2.95.0 (Land lease)	1,00,000	4,50,000	5,50,000
21.	Mr.P.PaneerSelvam(124) S/o. Paramasivam Pudhunaduvalur Village Perambalur Circle.	0.42.0	1,00,000	5,00,000	6,00,000
22.	Mr. K. Shivalingam (125) S/o. Karuppan Pudhunaduvalur Village Perambalur Circle.	0.44.0	1,00,000	4,00,000	5,00,000

23.	Mr. S. Alagappan (126) S/o. SeerangaGoundar Pudhunaduvalur Village Perambalur Circle.	0.55.0	50,000	4,50,000	5,00,000
24.	Mr. P. Duraisamy (151) S/o. Pachamuthu Pudhunaduvalur Village Perambalur Circle.	1.96.0	3,00,000	5,00,000	8,00,000
25.	Mr. R. Ramesh (156) S/o. Rengaraj Pudhunaduvalur Village Perambalur Circle.	3.56.5 (Land lease)	5,00,000	3,00,000	8,00,000
26.	Mr. S. Mookkan (158) S/o. Suppu Pudhunaduvalur Village Perambalur Circle.	1.10.5	1,00,000	1,50,000	2,50,000
27.	Mr. S. Jeganathan (160) S.o. Sundharam Perambalur(North)Village Perambalur Circle.	0.39.0	1,00,000	2,50,000	3,50,000

*I would like to inform you that I have investigated 27 persons from the list sent in the letter as seen in view 1 and attached the documents herewith.*

*I will conduct an inquiry with the remaining persons and send the final report soon. I kindly inform you that I have attached the original statement of the above 27 persons, the copy of the chitta and the copy of the land holding persons.*

***Annexure - Original Affidavit copies of 27 persons including chitta copies and Adangal copies***

*Your faithfully,*  
***Revenue District Collector,***  
*Perambalur.*

*Copy is submitted for the information of the District Collector, Perambalur. Copy is submitted for the information of the Revenue Commissioner, Perambalur.*

From

Mr. S. Balakrishnan, M.A,  
Revenue District Collector,  
Perambalur.

To

Assistant Commissioner of Income Tax,  
Williams Road,  
Cantonement,  
Tiruchirapalli 620 001.

N.K.A1/2032/2017

Date: 30.06.2017

Sir,

Subject: Income Tax – Perambalur District, Perambalur Circle, Perambalur (South) Village, report on income of Mr. S.Kathiravan – regarding.

Reference:

1. Summons dated 11.05.2017 issued by the Assistant Commissioner of Income Tax, Tiruchirapalli.
2. Letter No. N.K.A1/2032/2017 dated 15.05.2017 issued by the District Collector, Perambalur.
3. Summons dated 11.05.2017 issued by the Assistant Commissioner of Income Tax, Tiruchirapalli.
4. Letter No. N.K.A1/2032/2017 dated 19.05.2017, 04.06.2017 and 19.06.2017 issued by the District Collector, Perambalur.

Based on the submissions made by Mr. KathiravanSrinivasan, residing in Perambalur District, Perambalur (South) Village, during the income tax proceedings, the land holding and income details of 159 persons were called for by the Assistant Commissioner of Income Tax by way of communication under reference no.1.

In the list of persons mentioned in the communication under reference no.1, 27 persons had already been investigated and the consequent report dated 19.06.2017 had been forwarded. The details of income of 24 other persons mentioned in said list have been gathered through investigation and the details are as under;

S. No.	Name and Address	Land held (in hectare)	Annual Income from land (in Rs.)	Income from Dairy Cow (in Rs.)	Gross Income (in Rs.)
1.	Mr.R.Sankardas (77), S/o. Mr.Ramasamy, Pudunaduvalur	1.21.0	60,000	1,00,000	1,60,000

	village,Perambalur District				
2.	Mr.M.Rajendran (61), S/o. Manickam, Pudunaduvalur village, Perambalur District	0.86.5	55,000	1,00,000	1,55,000
3.	Mr.P.Selvaraj (105), S/o. Periyasamy, Pudunaduvalur village, Perambalur District	0.94.0	65,000	1,00,000	1,65,000
4.	Mr.A.Arivazhagan (108), S/o. Mr.Arunachalam, Pudunaduvalur village, Perambalur District	---	60,000	80,000	1,40,000
5.	Mrs.V.Ezhilarasi (128), D/o. Velumurugan, Perambalur (North) village, Perambalur District	---	---	1,80,000 (Private Company)	1,80,000
6.	Mr.R.Anbazhagan (69), S/o. Mr.Ramasamy, Pudunaduvalur village, Perambalur District	---	50,000 (Agricultura l wages)	1,00,000	1,50,000
7.	Mr.V.Rajendran (138), S/o. Mr.Venkatachalam,Perambalur (South) village, Perambalur District	---	---	1,70,000 (Private Company)	1,70,000
8.	Mr.K.Saravanan (145), S/o. Mr.Krishnasamy, Ladhapuram Village,Pudunaduvalur village, Perambalur District	---	---	1,40,000 (Private Company)	1,40,000
9.	Mr.Mohamed Rafi1 (140) ,S/o. Mr.Kurshid, Aranarai (N) Village, Perambalur District	---	---	1,40,000 (Private Company)	1,40,000
10.	Mr.G.Saranraj (149), S/o. Mr.Gunasekaran,Pudunaduvalu r village, Perambalur District	---	---	1,50,000 (Private Company)	1,50,000
11.	Mr.R.Nagaraj, S/o. Mr.Ramanathan, Pudunaduvalur village, Perambalur District	---	60,000	1,00,000	1,60,000

12.	Mrs.M.Chitra (91), W/o. Manoharan,Pudunaduvalur village, Perambalur District	---	60,000	1,10,000	1,70,000
13.	Mr.K.Karthik (137), S/o. Mr.Kannusamy, Perambalur (North) village, Perambalur District	---	---	1,20,000 (Private Company)	1,20,000
14.	Mr.D.Karthikeyan (122), S/o.Mr.Devarajan, Ammalalayam Village, Perambalur District	---	---	1,40,000 (Private Company)	1,40,000
15.	Mrs.K.Rajamani (17), W/o. Mr.Mookan, Pudunaduvalur village, Perambalur District	---	1,50,000	---	1,50,000
16.	Mr.I.Dayalan (150), S/o.Mr.IlangovanPerambalur (North) village, Perambalur District	---	---	1,50,000 (Private Company)	1,40,000
17.	Mr.P.Appuli (54), S/o. Mr.Periyasamy, Vellanur, Pudunaduvalur village, Perambalur District	---	60,000 (Agricultura l wages)	1,40,000	2,00,000
18.	Mr.R.Ramalingam, (38) S/o.Mr.Ramasamy, Mettur Village, Pudunaduvalur village, Perambalur District	0.56.0	60,000	1,10,000	1,70,000
19.	Mrs.P.Latchmi (5), W/o.Mr.Perumal, Pudunaduvalur village, Perambalur District	1.57.5	60,000	1,00,000	1,60,000
20.	Mr.K.Kathavarayan (51), S/o.Mr.Krishnan, Mettur Village, Pudunaduvalur village, Perambalur District	0.23.5	60,000	1,10,000	1,70,000
21.	Mrs.K.Angammal (39), W/o.Mr.Krishnasamy, Pudunaduvalur village, Perambalur District	1.67.0	90,000	1,00,000	1,90,000
22.	Mrs.S.Palaiammal (109), W/o.Mr.Sivasanmugam, Pudunaduvalur village, Perambalur District	---	60,000 (Agricultura l wages)	1,40,000	2,00,000
23.	Mr.N.Latchmanan (41),	0.81.0	60,000	1,00,000	1,60,000

	S/o.Mr.Nallathambi, Mettur Village, Pudunaduvalur village, Perambalur District				
24.	Mr.V.Rengaraj (8), S/o. Mr.Venkatachalam, Pudunaduvalur village, Perambalur District	0.61.5	60,000	1,00,000	1,60,000

*It is kindly informed that, at this moment, 24 people have been investigated and copy of chitta and adangal of those who own land is being enclosed with this report.*

*After investigating the remaining persons, the final report will be sent soon.*

*Enclosures: Chitta and Adangal copies of 9 people*

*Yours faithfully,*

*Revenue District Collector,  
Perambalur.*

*A copy is forwarded to the District Head, Perambalur for their information.*

*A copy is forwarded to the Revenue Commissioner, Perambalur for their information.*

---

*From*

*Mr. S. Balakrishnan, M.A,  
Revenue District Collector,  
Perambalur.*

*To*

*Assistant Commissioner of Income Tax,  
Williams Road,  
Cantonement,  
Tiruchirapalli 620 001.*

*N.K.A1/2032/2017*

*Date: 08.08.2017*

*Sir,*

*Subject: Income Tax – Perambalur District, Perambalur Circle, Perambalur (South) Village, report on income of Mr. S.Kathiravan – regarding.*

*Reference:*

- 5. Summons dated 11.05.2017 issued by the Assistant Commissioner of Income Tax, Tiruchirapalli.*

6. Letter No. N.K.A1/2032/2017 dated 15.05.2017 issued by the District Collector, Perambalur.
7. Summons dated 11.05.2017 issued by the Assistant Commissioner of Income Tax, Tiruchirapalli.
8. Letter No. N.K.A1/2032/2017 dated 19.05.2017, 04.06.2017 and 19.06.2017 issued by the District Collector, Perambalur.

Based on the submissions made by Mr. Kathiravan, S/o.Mr.Srinivasan, residing in Perambalur District, Perambalur (South) Village, during the income tax proceedings, the land holding and income details of 159 persons were called for by the Assistant Commissioner of Income Tax by way of communication under reference no.1.

Based on the same, the details of income of people residing in Perambalur District for the period from 2002 to 2010 were investigated and the details are as below;

S. No.	Name and Address	Land held (in hectare)	Annual Income from land (inRs.)	Income from Dairy Cow (in Rs.)	Gross Income (in Rs.)
1.	Mr.M.Maruthamuthu, S/o.Mr.Mahalingam, Pudunaduvalur village, Perambalur District	0.61.0	50,000	1,00,000	1,50,000
2.	Mrs.T.Muthukannu, W/o.Mr.Thangavelu,Pudunaduvalur village, Perambalur District	---	---	---	---
3.	Mrs.C.Latchmi, W/o.Mr.Chinnasamy, Pudunaduvalur village, Perambalur District	---	---	---	---
4.	Mrs.V.Devi, W/o.Mr.Vijayakumar, Pudunaduvalur village, Perambalur District	---	60,000	90,000	1,50,000

When the above four persons were investigated, the persons mentioned in row nos.2 & 3 have sworn to an affidavit that they have not received any loan from the individual and that they have no relation to the affidavits filed by the mentioned individual.

I would like to inform that in the list of persons mentioned in letter under reference no.1, 4 persons have been investigated and the documents are being attached herewith.

*Enclosures:*

*Original affidavit of 4 persons*

*Copies of Chitta*

*Copies of Adangal*

*Yours faithfully,*

*Revenue District Collector,  
Perambalur.*

*A copy is forwarded to the District Collector, Perambalur for their information.*

*A copy is forwarded to the Revenue Commissioner, Perambalur for their information.*

5.2 The assessee filed complete details in the shape of affidavit, confirmations from these persons that they have taken loans from the assessee and repaid these loans to the assessee back. The assessee took this plea before the AO and this fact is noted by the AO in his assessment order at page 4,

“vii Regarding the balance amount for Rs.7,56,74,000/-, the assessee’s A/R claims that the amount represents the loan amounts received back from the various persons (Sundry debtors) living in and around Perambalur District. Originally, the assessee used to advance loan(s) especially to village/rural/poor people for the purpose of agricultural operations/purchase of agri.land and cows for their livelihood/welfare of their families for the past 10 years. As the assessee was in need of money to invest in current a/c of Dhanalakshmi Mini Bus, he collected the money back from the various parties to whom the amount of Rs.7,56,74,000/- advanced in the earlier year.”

5.3 According to AO, the assessee is unable to prove the identity of the debtors and their creditworthiness and hence, it was added. As noted by us that the CIT(A) also confirmed the addition by stating that all sundry debtors said to have received loans from the

assessee are persons of meager means and he considered the remand report of the AO and the loan amount received is only a bogus claim and method adopted by assessee to bring his own unaccounted cash into main stream. Nothing beyond this was examined despite the fact that the assessee specifically filed affidavits, confirmations, details of land holding and source of income of these debtors from whom the assessee has received back the money. The assessee has filed all the details in regard to debtors from whom the assessee has received back the money. The assessee has filed all the details before the AO in regard to receipt of this money, which has been loaned out to these above stated persons. According to us, the assessee realized the sum of loan amounts from the villagers as per the submitted affidavit, confirmations, source of income and details of land holding filed, the assessee has discharged his onus of proving the sundry debtors. We noted that all these details were referred by CIT(A) back to the AO to verify the veracity and in turn, the AO referred the matter to the Revenue Officer, i.e, Tahsildar on communication from the Income-tax Department, all confirmed the transaction. It is pertinent to note that all the persons admitted have returned the money.

5.4 Now the question arises, to what extent the onus is on the assessee to explain. The assessee has filed all the relevant details

and also report of the Revenue Officer of Perambalur i.e., Tahsildar was also obtained by the Income-Tax Department and despite that have not carried out any further enquiry or investigation by the AO, he made addition just on the basis of conjunctures and surmises. This issue has been considered by various courts and Hon'ble Supreme Court in the case of Smt. Srilekha Banerjee vs. CIT, [1953] 49 ITR 112 held that if the explanation given by the assessee shows that the receipt was not of an income nature, the Department cannot act unreasonably and reject the explanation to hold that it was income in case, the Department do not conduct further enquiry or investigation. But, in case, the explanation is unconvincing then the same should deserve to be rejected and if the Department rejects it and draws inference that amount represents income either from sources already disclosed or from some undisclosed sources, that can be added only after stating the reason as to how explanation is unconvincing. Similarly, the Hon'ble High Court of Madras in the case of S. Hastimal vs. CIT, [1963] 49 ITR 273 has held that inability of the Department to verify the explanation offered is not a sufficient cause for rejection of the explanation. We are in agreement with the Department that it is not correct to say that the AO is not entitled to reject the explanation without some other positive evidence falsifying the assessee's case. The true view

is that, while the AO is not bound to accept as true any possible explanation which the assessee may put forth but he cannot also especially reject the assessee's explanation without any enquiry or reason. Since the assessee has discharged all initial onus and assessee was asked to prove the source of debit entries, the assessee actually proved in the present case. The Hon'ble Gujarat High Court in the case of DCIT vs. Rohini Builders, (2002) 256 ITR 360 held that the amount representing cash credits was not includable in the total income of the assessee as the assessee had discharged the initial onus and the assessee can be asked to prove the source of the source of credit in its books of accounts, which the AO failed to do so. In view of this finding and moreover these being only debtors who have returned their loan amount to the assessee and assessee has declared all these loan amounts in their books of accounts, which were never rejected by the Department and accepted in earlier years, now they cannot go back until that the source are not proved. In such circumstances, in the given facts of the case and case laws relied above, we hold as under:-

- (i) First of all, we are of the view that the debtors cannot be added u/s.68 of the Act.
- (ii) Moreover, the assessee has discharged the onus laid u/s.68 of the Act by filing overwhelming evidences which were examined by

the AO as well as by the Revenue officials of the TamilNadu Government and hence, we delete the addition and allow this issue of assessee's appeal in ITA No.170/Chny/2022. Similarly, the addition of unexplained cash credit u/s.68 of the Act for the assessment year 2011-12 in ITA No.172/Chny/2022 is deleted.

6. The next issue in ITA No.171 & 172/Chny/2022 for assessment years 2010-11 & 2011-12 is as regards to the orders of CIT(A) confirming the action of the AO in treating the surplus on sale of agricultural land as business income amounting to Rs.63,02,000/- & Rs.81,10,384/-. For this, assessee has raised following grounds

AY 2010-11

2.1 The CIT(A) erred in upholding the action of the AO in treating Rs.81,10,384/- (Rs.63,02,000/-) being surplus on sale of Agricultural Land as business income.

3.2. The land sold by the appellant being agricultural in nature and the appellant having returned agricultural income of Rs.4.25 lakhs during this A.Y., the CIT(A) erred in not deleting the addition based on assumptions and surmises.

AY 2011-12

3.1 The CIT(A) erred in upholding the action of the AO in treating Rs.81,10,384/- being surplus on sale of Agricultural Land as business income.

3.2. The land sold by the appellant being agricultural in nature and the appellant having returned agricultural income of Rs.4.25 lakhs during this A.Y., the CIT(A) erred in not deleting the addition based on assumptions and surmises.

Since, in both the years the issue is common as regards to the sale of agricultural land and surplus arising out of the same treated by the AO as business income as against claimed by assessee as capital asset not taxable to long term capital gain being agricultural land. We will take facts from assessment year 2010-11 in ITA No.171/Chny/2022 and will decide the issue.

7. Brief facts are that the AO during the course of assessment proceedings noticed that the assessee has sold lands to Srinivasan Charitable and Educational Trust for a total consideration of Rs.68.40 lakhs for the assessment year 2010-11 and to Srinivasan Health and Educational Trust and Srinivasan Charitable and Educational Trust i.e., these two trusts for a sum of Rs.1.35 crores for the assessment year 2011-12. The assessee is one of the managing trustees in both the trusts. The assessee before the AO in both the years contended that these lands were agricultural lands and hence, not liable for capital gains in view of the provisions of section 2(14) of the Act. But the AO noted that the lands were purchased by assessee, who is also one of the trustees and these lands were purchased during the last 2-3 years and now, sold to these two trusts in assessment year 2010-11 & 2011-12 for consideration as noted above. The AO treated these lands as

business asset and held that the assessee is doing business as adventure in the nature of business or trade and hence, he assessed the same to short term capital gains. The CIT(A) exactly on identical facts dismissed the claim of assessee. Aggrieved, now assessee is in appeal before the Tribunal for both the years.

8. Before us the Id.counsel for the assessee filed copy of sale deeds executed in regard to these agricultural lands which are filed at pages 15 to 48 of assessee's paper-book and certificate from Village Administrative Officer of Nochiam Village along with Adangal extracts and Aranai (South) Village along with Adangal extracts at pages 49 to 60 of the assessee's paper-book and stated that the VAO certificate clearly proves that these are purely agricultural land and assessee is cultivating these lands as per chitta and adangal. The Id.counsel for the assessee also drew our attention for return of income filed for assessment year 2007-08, 2008-09 & 2009-10 wherein agricultural income was returned by the assessee for a sum of Rs.2.95 lakhs, Rs.2.65 lakhs & Rs.3.75 lakhs respectively. For assessment year 2010-11, the assessee has declared agricultural income at Rs.4.25 lakhs and for assessment year 2011-12 also agricultural income returned was Rs.4.25 lakhs. The Id.counsel for the assessee stated that when these lands were agricultural lands as certified by the Revenue authorities and assessee is continuously

cultivating these lands and growing agricultural crops and earning agricultural income, which are being declared in the respective returns of income, these cannot be treated as business asset and consideration on account of sale of these lands is to be treated as sale consideration arising out of agricultural lands.

9. When this was confronted to Id. CIT-DR, he could not controvert the above fact situation and the evidences filed by assessee in his paper-book at pages 27 to 60.

10. We have gone through the facts in entirety in all these two years and noted that the assessee had earned agricultural income and consistently from assessment year 2007-08 admitted agricultural income. The Revenue records also show that the same are subject to agricultural revenue and lands are agricultural lands. Even the crops are grown and agricultural activities were carried out. Hence, in the given facts, which are un-controverted, we hold that the sale proceeds are of agricultural land and not business asset as is being contended by Revenue. Hence, the same cannot be assessed to capital gains and are exempt. Accordingly, this issue of assessee in both the years is allowed.

11. The next issue in ITA No.172/Chny/2022 for assessment year 2011-12 is as regards to the order of CIT(A) confirming the action of the AO in making addition of unexplained credit of Rs.3,00,00,000/- being amount received temporarily from the creditor as unexplained cash credit u/s.68 of the Act. For this, assessee has raised the following ground Nos.4.1 & 4.2:-

4.1. The CIT(A) grossly erred in confirming the addition of Rs.3,00,00,000/- as unexplained credit which is nothing but amount temporarily received from a creditor.

4.2. The appellant having proved the transactions to be genuine in nature as the same had taken place via banking channel, the CIT(A) erred in confirming the addition in toto.

12. We have heard rival contentions and gone through facts and circumstances of the case. We noted that only sundry credit claimed by assessee is in the name of Murugan Traders from whom the assessee has obtained loan of Rs.3 crores. The AO required the assessee to file confirmation and assessee filed confirmation of Murugan Traders having Permanent Account NoAATFM1756G. The AO deputed an Inspector but since at the given address, the person was not available, the AO accordingly made addition of this Rs.3 crores as unexplained cash credit u/s.68 of the Act. Aggrieved, assessee preferred appeal before CIT(A).

13. The CIT(A) also confirmed the action of the AO by holding that the assessee is unable to prove the genuineness of transaction or the creditworthiness of the payer. The assessee before CIT(A) stated that there is no actual cash flow between the assessee and Murugan Traders but credit for a sum of Rs.3 crores in two parts was given on 31.03.2011 by a transfer entry in the Indian Overseas Bank account of Dhanalakshmi Agencies. It was repaid on 15.04.2011 again through the same bank. The assessee filed confirmation before CIT(A) and the relevant ledger extracts. The CIT(A) noted that although the amount has been confirmed, paid and received through banking channel but he has not accepted the claim of the assessee. But the CIT(A) noted this fact in para 5.17 as under:-

“5.17 While going through the above submissions and details furnished, it can be seen that the appellant has proved only genuineness of the transaction but not the creditworthiness of payer. For any transaction to be valid, the genuineness, creditworthiness and identity should be proved. However, the appellant neither before the AO nor before the appellate authorities proved the creditworthiness. The appellant has claimed that the amount has been received by banking channel and paid back by banking channel is not sufficient to prove the transaction as true and real transaction.

14. At this stage, when pointed out to Id.counsel, whether he want to file the details before AO to prove the creditor, he undertook to file complete details and to produce whatever evidence the AO wants in regard to this. On this, the Id.CIT-DR has not objected.

Hence, in view of the concession given by both the sides, we remit this issue back to the file of the AO, who will examine the creditor and then will decide accordingly.

15. In all these three appeals, the assessee has also raised charging of interest u/s.234A, 234B & 234C of the Act. They are consequential in nature. The AO will decide the levy of interest at the time of giving appeal effect to this order.

16. In the result, the appeal filed by the assessee in ITA No.170 & 171/Chny/2022 are allowed and ITA No.172/Chny/2022 is partly allowed for statistical purposes.

Order pronounced in the open court on 23<sup>rd</sup> December, 2022 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

**(MANOJ KUMAR AGGARWAL)**

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 23<sup>rd</sup> December, 2022

**RSR**

आदेशकी प्रतिलिपि अग्रेषित/Copy to:

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