

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND**  
**SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.: **970, 971, 973, 974 & 975/Chny/2020**  
निर्धारण वर्ष / Assessment Years: 2009-10, 2010-11, 2012-13, 2013-14 &  
2014-15

V. Arumugapandi,  
No. 3/35A, Amman Nagar,  
Siruvani Nagar,  
Coimbatore – 641 024.  
**[PAN: AMLPA-1246-R]**

(अपीलार्थी/Appellant)

v. The Asst. Commissioner of  
Income Tax,  
Central Circle -1,  
No. 63 Race Course Road,  
Coimbatore – 641 018.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. R. Anish Kumar, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Shri. R. Clement Ramesh Kumar, CIT

सुनवाई की तारीख/Date of Hearing : 11.10.2023

घोषणा की तारीख/Date of Pronouncement : 18.10.2023

**आदेश /ORDER**

**PER MANJUNATHA. G, ACCOUNTANT MEMBER:**

These five appeals filed by the assessee are directed against common order passed by the learned Commissioner of Income Tax (Appeals)-18, Chennai, dated 23.09.2020 and pertains to assessment years 2009-10, 2010-11, 2012-13 to 2014-15. Since, facts are identical and issues are common, for the sake of convenience, these appeals are heard together and are being disposed off, by this consolidated order.

2. At the outset, learned AR for the assessee submitted that the appeals filed by the assessee is time barred by 20 days for which necessary petition for condonation of delay along with affidavit explaining the reasons for the delay has been filed. The AR, further submitted that the assessee could not file appeals within the time allowed under the Act, due to the fact that the Counsel for preparation of the above appeals was unwell due to viral fever and could not able to give instructions to his counsel to prepare the appeals to file the same within time. The delay in filing appeals is neither intentional nor willful but for the unavoidable reasons, therefore, delay may be condoned in the interest of advancement of substantial justice.

3. The learned DR, on the other hand, strongly opposing condonation of delay petition filed by the assessee submitted that the reasons given by the assessee do not come within the ambit of reasonable and bonafide reasons, which can be considered for condonation of delay and hence, appeals filed by the assessee may be dismissed as not maintainable.

4. Having heard both sides and considered the petition filed by the assessee for condonation of delay, we are of the considered view that reasons given by the assessee for not filing the appeals within the time allowed under the Act comes under reasonable cause as provided under the Act for condonation of delay and hence, delay in filing of appeals is condoned and appeals filed by the assessee are admitted for adjudication.

5. The assessee has more or less raised common grounds of appeal for all assessment years. Therefore, for the sake of brevity, grounds of appeal filed for assessment year 2009-10 are reproduced as under:

*"1. The Common order of The Commissioner of Income Tax (Appeals)18, Chennai- 34 dated 23.09.2020 in ITA Nos. 327 to 332/19-20 in so far as the issue contested in the present appeal pertaining to the above assessment year is contrary to law, facts and in the circumstances of the case.*

*2.The CIT (Appeals) failed to appreciate the fact that land was taken for lease for 10 years and the copy of the deed was produced along with chitta and adangal in the name of the land owners. As the owner have become aged and not in a position to maintain their land, the Appellant is a family of agricultural background agreed and raised some agricultural products from their land and sold the same to the market and earned some income as agricultural income. Hence this disallowance/ rejection is without proper justification.*

3. *The CIT (Appeals) failed to note that the Assessing officer rejected the claim mainly because the Appellant's name has not reflected in the Adangal extract. It is pertinent to note that the lessee's name will not appear in the Adangal as the owner of the land will not agree for the same.*

4. *The CIT (Appeals) failed to appreciate that the relevant facts were completely ignored despite such facts were brought to the notice of the Assessing Officer and further before him and ought to note that the findings of the Assessing Officer as well as CIT (Appeals) is incorrect both on facts and in law.*

5. *The CIT (Appeals) erred in sustaining agricultural income on reaching irrelevant conclusions while sustaining such sum as agricultural income in the computation of taxable total income without assigning proper reasons and justifications.*

6. *The CIT (Appeals) ought to have appreciated the fact that the Appellant was the individual fresh graduate from the college and not yet started any earnings of his own and looking for some jobs or hold to start any business of his own. As and when he gets an opportunity he was doing same real estate agents and mediator to some financial persons in the market and earning some amount as commission or interest. Hence he was not contributing anything to his family as he was living with his parents as a joint family and all expenses were borne by them. Hence no provision was made for drawing during that year only. Hence the disallowance/rejection is without appropriate justification.*

7. *The CIT (Appeals) erred in sustaining inadequate drawing on reaching irrelevant conclusions while sustaining such sum as inadequate drawing in the computation of taxable total income without assigning proper reasons and justifications.*

8. *The CIT (Appeals) failed to appreciate that presumption of 'Income from Other Sources' is wholly unjustified and ought to have appreciated that in the absence of direct evidence, the sustenance of the said additions were wrong, erroneous, unjustified,*

*incorrect and sustainable in law, thereby vitiating the findings in the impugned order.*

*9. The CIT (Appeals) failed to appreciate the explanations offered.*

*10. The CIT (Appeals) failed to appreciate that the assessment completed after search was bad in law and in the absence of direct evidence coupled with wrong initiation of the proceedings would vitiate the consequential search assessment on various facts.*

*11. The impugned order and the assessment order is a non-speaking order merely confirms the demand that the Appellant has not offered any explanation and not objected to the additions is wholly unsustainable and would be nullity in law.*

*12. The CIT (Appeals) has merely reiterated the order of the Assessing Officer and has not dealt the issues independently by applying laws and the facts."*

6. The brief facts of the case extracted are that, a search u/s. 132 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") was conducted in the case of the appellant on 06.03.2014. As a result of search and post search enquiries various undisclosed income and investments by the assessee was found. Consequent to search, notice u/s. 153A of the Act dated 29.04.2015, was issued for these assessment years immediately preceding the assessment year in which search took place, requiring the appellant to file his return of income. The appellant has filed return of income in response to notice u/s. 153A of the Act, on different dates and admitted the total

income which was returned in the return of income filed u/s. 139 of the Act. The cases were selected for scrutiny and the assessment has been completed u/s. 143(3) r.w.s. 153A of the Act, and made additions towards agricultural income, unexplained investment in jewellery, addition towards inadequate drawings for personal purpose, unproved gifts from Father-in-law, source for investment in immovable property, additions towards unproved loans and liabilities. The assessee carried the matter in appeal before the first appellate authority, but could not succeed. The Id. CIT(A), for the reasons stated in their appellate order dated 23.09.2020, rejected arguments of the assessee and sustained additions made by the Assessing Officer towards agricultural income, inadequate drawings, unexplained investment in jewellery, unexplained investment in immovable property, unproved loans and unproved liabilities. Aggrieved by the Id. CIT(A) order, the appellant is in appeal before us.

7. The first issue that came up for our consideration for assessment year 2009-10 & 2010-11 is addition towards agricultural income. The appellant has declared agricultural

income for assessment year 2009-10 & 2010-11. The Assessing Officer called upon the assessee to file necessary evidences including the details of sales bills for sale of agricultural products and expenditure, if any incurred for carrying out agricultural activity. The appellant has filed a unsigned lease agreement with one Smt. Thilagavathy and Shri. Kalisamy dated 06.12.2006, for cultivation of 2.5 acres of land at Devarayapuram village. Based on the details filed by the assessee, the Assessing Officer noticed that the owners of the land and cultivators of the land was Smt. Thilagavathy and Shri. Kalisamy. Therefore, rejected arguments of the assessee and disallowed agricultural income claimed by the assessee and made additions under the head income from other source for both assessment years.

8. The Ld. Counsel for the assessee submitted that, the Id. CIT(A) erred in sustaining additions made towards agricultural income, even though the appellant has filed lease agreement to prove land holding and also other evidence to prove carrying out of agricultural operations.

9. The Id. DR, Shri. R. Clement Ramesh Kumar, CIT, supporting the order of the CIT(A) submitted that, the assessee is neither holding any land nor proved carrying out of agricultural operations. Although, the appellant has filed unregistered lease agreement, but could not prove carrying out of agricultural operations. The Assessing Officer, after considering relevant facts has rightly made additions towards agricultural income and the Id. CIT(A) has rightly sustained additions made by the Assessing Officer and their order should be upheld.

10. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. There is no dispute with regard to the fact that the appellant does not own any agricultural land. Although, the appellant claims to have taken 2.5 acres land on lease from Smt. Thilagavathy and Shri. Kalisamy, but lease agreement submitted by the assessee was unregistered. Further, the appellant could not file any other evidence to prove carrying out actual agricultural operations. No evidence has been furnished to prove sale of agricultural produce and also proof of expenditure incurred for earning agricultural income. In

absence of any evidence, it is difficult to accept the arguments of the appellant that he has derived agricultural income for both assessment years. Therefore, we are of the considered view that, there is no error in the reasons given by the Id. CIT(A) to sustain additions made towards agricultural income for both assessment years and thus, we are inclined to uphold the findings of the Id. CIT(A) and reject grounds taken by the assessee for both assessment years.

11. The next issue that came up for our consideration for assessment year 2009-10 is addition towards inadequate drawings. The Assessing Officer, had noticed that the appellant has not debited any drawings for household expenses in the capital account for the year ended 31.03.2009. The Assessing Officer, called upon the assessee to explain for which the appellant stated that he is residing in joint family and household expenses has been met by his father. The Assessing Officer, did not accept the explanation of the assessee and accordingly estimated Rs. 5,000/- per month for household expenses and made addition of Rs. 60,000/- under the head income from other sources.

12. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. Admittedly, the assessee has not debited any amount towards drawings for personal expenses in capital account for the year ended 31.03.2009. Further, when the Assessing Officer called upon the assessee to explain how he has met his household expenses, the appellant had given vague reply and argued that household expenses has been met by his father. We find that the appellant is married and has two children and thus, it is difficult to accept the explanation of the appellant that all household expenses are met by his father. Further, the appellant has no objection for the proposed addition before the Assessing Officer. Since, the assessee has not raised any objection for addition, there is no cause of action for the assessee to challenge said addition before the CIT(A). Since, the assessee could not justify inadequate drawings for household expenses and also agreed for addition, in our considered view, there is no error in the reasons given by the Id. CIT(A) to sustain additions made towards inadequate drawings. Thus, we are inclined to uphold the addition made by the Assessing Officer and reject the ground taken by the assessee.

13. The next issue that came up for our consideration from grounds of appeal filed for assessment year 2010-11 is unproved gift from Father-in-law, amounting to Rs. 2,00,000/-. During the course of assessment proceedings, the Assessing Officer noticed that the assessee has made Rs. 2,00,000/- cash deposits to his bank account maintained with State Bank of India, Kuniamuthur Branch. The Assessing Officer, called upon the assessee to explain source. The assessee explained that he has received Rs. 2,00,000/- gift from his Father-in-law and source of said gift is income from his business at Mumbai. The Assessing Officer, rejected the explanation of the assessee on the ground that, the gift claimed to have been received from Father-in-law was in cash and further, the assessee could not file any evidence including confirmation from the donor and his PAN number.

14. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. Admittedly, the assessee has made cash deposits of Rs. 2,00,000/- to his bank account maintained with State Bank of India, Kuniamuthur Branch. The assessee explained source

for said cash deposits out of gift claimed to have been received from Father-in-law, who resides in Mumbai. Except oral statement, the assessee could not adduce any evidence for so called gift including confirmation letter from the donor and his PAN number. In absence of any evidences, it is difficult to accept the explanation of the assessee for source for cash deposits. Therefore, we are of the considered view that, there is no error in the reasons given by the CIT(A) to sustain addition made towards gift from Father-in-law amounting to Rs. 2,00,000/- and thus, we are inclined to uphold the addition made by the Assessing Officer and reject ground taken by the assessee.

15. The next issue that came up for our consideration from grounds of appeal for assessment years 2010-11, 2013-14 & 2014-15 is unexplained investment in jewellery. During the course of search, incriminating material was seized showing purchase of jewellery for these assessment years. The appellant did not include jewellery in his statement of affairs filed for these assessment years and also could not explain source for purchase of jewellery either out of his drawings or known source of income. Therefore, the Assessing Officer

made addition towards unexplained jewellery for assessment years 2010-11, 2013-14 & 2014-15.

16. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. It is an admitted fact that during the course of search various evidences was found, which shows purchase of jewellery by the assessee for these assessment years. The assessee neither included investment in jewellery in his statement of affairs nor explained source for purchase of jewellery out of his drawings or known source of income. Even before us, except oral statement, the assessee could not adduce any evidence to prove source for investment in jewellery. Therefore, we are of the considered view that, there is no error in the reasons given by the Assessing Officer and Id. CIT(A) to sustain additions made towards unexplained investment in jewellery for assessment year 2010-11, 2013-14 & 2014-15. Thus, we are inclined to uphold the findings of the Id. CIT(A) and reject ground taken by the assessee.

17. The next common issue that came up for our consideration from grounds of appeal filed for assessment

years 2012-13, 2013-14 & 2014-15 is additions towards investment in immovable property and unproved loans and liabilities shown in balance sheet. During the financial year relevant to assessment year 2012-13, the appellant had purchased immovable property on 15.11.2011 from Shri. T. Kannan for a consideration of Rs. 16,50,000/-. The assessee has shown a liability of Rs. 16,50,000/- against this property. The appellant further stated that, he did not pay any amount to Shri. T. Kannan and also the sale consideration has been paid in installments. The assessee further claimed that he had taken loan of Rs. 18,64,185/- from M/s. Gokulam Chits against security of property. The Assessing Officer, did not accept the explanation of the assessee and according to the Assessing Officer, the sale deed clearly shows payment of consideration in cash. Therefore, the Assessing Officer has made addition towards investment in immovable property amounting to Rs. 16,50,000/- for assessment year 2012-13. Similarly, the Assessing Officer has made addition of Rs. 7,90,000/- towards unproved loans on the basis of statement of affairs filed by the assessee for the year ended 31.03.2012. The Assessing Officer, had also made addition towards unproved liabilities and loans for assessment years 2013-14 & 2014-15, on the

basis of statement of affairs filed by the assessee for the relevant financial year ending 31.03.2013 & 31.03.2014.

18. The Ld. Counsel for the assessee, submitted that the Assessing Officer in one hand made addition towards investment in immovable property and on the other hand addition towards loan liabilities without considering the arguments of the assessee that, the Auditor who filed his return of income has filed incorrect statement of affairs without considering relevant loans borrowed by the assessee for acquisition of the property. The Ld. Counsel for the assessee further submitted that, the Assessing Officer has made addition towards loan liabilities for the assessment year 2012-13, on the basis of statement of affairs and again made addition towards loan liability for assessment year 2013-14 & 2014-15, on the basis of very same statement of affairs filed by the assessee without allowing credit for addition made towards loan for earlier assessment years. Therefore, he submitted that the issue of addition towards investment in immovable property and consequent loan liability for assessment years 2012-13, 2013-14 & 2014-15 may be set

aside to the file of the Assessing Officer to explain source for purchase of immovable property and also repayment of loan.

19. The Id. DR, Shri. R. Clement Ramesh Kumar, CIT, supporting the order of the CIT(A) submitted that, it is an admitted fact that the assessee has shown investment in purchase of property and consequent loan liability in the statement of affairs filed for the relevant assessment years. The Assessing Officer noticed that whatever loan liability shown in the statement of affairs has already been repaid or there is a difference in loan liability as claimed by the appellant and loan liability as per records. Since, the appellant could not explain the loan with relevant details, the Assessing Officer has rightly made addition towards investment in property and consequent loan liability and their order should be upheld.

20. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. It is an admitted fact that the Assessing Officer has made addition towards purchase of immovable property amounting to Rs. 16,50,000/- for assessment year 2012-13. It is also an admitted fact that the Assessing Officer has made additions towards unproved loans and jewellery loan taken

from ICICI bank for assessment year 2012-13 and also loan taken for purchase of vehicle for assessment years 2013-14 & 2014-15. It was an argument of the Ld. Counsel for the assessee that, addition is solely based on the statement of affairs filed by the Auditor along with return of income and said statement of affairs has been prepared without considering certain loans borrowed by the assessee, which is the source of acquisition/purchase of property. From the above, we find that the Assessing Officer has made addition towards investment in purchase of property for assessment year 2012-13 and again made addition towards loan liabilities without considering availability of source for purchase of property in the form of various loans claims to have been taken by the assessee from bank and financial institutions. The assessee claims that, he has borrowed jewellery loan from bank, which is the source of repayment of some other loan. The assessee also claims that he has taken loan from M/s. Gokulam Chits, against security of property, which is the source for repayment of jewellery loan. These facts needs to be verified, because there is no dispute with regard to the fact that the appellant has borrowed various loans and repaid certain loans by way of jewellery loan taken from other banks.

Since, the Assessing Officer has made additions towards investment in property and unproved loan liability on the basis of statement of affairs filed by the assessee for the relevant financial years and further, it was the argument of the assessee that said statement of affairs are incorrect, in our considered view the issue of addition towards investment in immovable property and unproved loan and liabilities for assessment years 2012-13, 2013-14 & 2014-15 needs to go back to the file of the Assessing Officer, to give one more opportunity of hearing to the assessee to explain his case. Thus, we set aside the issue to the file of the Assessing Officer and direct the Assessing Officer to reexamine the issue in light of averments of the assessee and also any other evidence that may be filed to explain source for purchase of immovable property and also loans shown in the statement of affairs filed for relevant financial years.

21. In the result, all the appeals filed by the assessee for assessment years 2009-10, 2010-11, 2012-13 to 2014-15 are partly allowed for statistical purposes.

Order pronounced in the court on 18<sup>th</sup> October, 2023 at Chennai.

**Sd/-**  
**(महावीर सिंह )**  
**(MAHAVIR SINGH)**  
उपाध्यक्ष /Vice President

**Sd/-**  
**(मंजुनाथ. जी)**  
**(MANJUNATHA. G)**  
लेखासदस्य /Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 18<sup>th</sup> October, 2023

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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