

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri Manjunatha, G. Accountant Member

Corrigendum to I.T.A. No.3066/Chny/2019

निर्धारण वर्ष/Assessment Year: 2014-15

Smt. Devakumari,
No. 48, Venkata Maistry Street,
Mannady, Chennai 600 001.
[PAN:AAGPD0150L]

Vs. The Assistant Commissioner of
Income Tax,
Non Corporate Circle 11,
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

शुद्धिपत्र आदेश /Corrignendum Order

PER V. DURGA RAO, JUDICIAL MEMBER:

The appeal of the assessee in ITA No. 3066/Chny/2019 as well as the appeal filed by the Revenue in ITA No. 3181/Chny/2019 for the assessment year 2014-15 were disposed off by the Division Bench 'B', Chennai Benches, Chennai vide common order dated 13.09.2023. The Id. Counsel for the assessee has brought to the notice that there is a typographical error in last sentence in para 9 of the order, wherein, the Bench has observed that the element of personal usage cannot be ruled out in the absence of production of electricity bills and thereby, the addition to the extent of ₹.2,00,000/- has been sustained out of addition confirmed by the Id. CIT(A). However, it was also mentioned that the "balance addition of ₹.3,00,000/- stands sustained" is a typographical error.

2. On perusal of the order, we find that there is a typographical error in last sentence in para 9 of the order. The Bench has observed that since the element of personal usage cannot be ruled out in the absence of production of electricity bills, the addition to the extent of ₹.2,00,000/- should be sustained and the balance addition confirmed by the Id. CIT(A) of ₹.3,00,000/- should have been mentioned as “deleted”. Since there is a typographical error in last sentence in para 9 of the order, the same is corrected vide this Corrigendum and it should be read as under:

9. “..... Though the assessee claims to have made payment to the TNEB and the element of personal usage cannot be ruled out in the absence of production of electricity bills, we sustain the addition to the extent of ₹.2,00,000/- out of addition confirmed by the Id. CIT(A) to the extent of ₹.5.00 lakhs and the balance addition of ₹.3,00,000/- stands deleted.

3. The order dated 13.09.2023 disposing off the assessee’s appeal in I.T.A. No. 3066/Chny/2019 stands accordingly modified by this Corrigendum to correct the typographical mistake. The rest of the order remains same. We order accordingly.

Sd/-
(MANJUNATHA, G.)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 22.11.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
 IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
 श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
 Before Shri V. Durga Rao, Judicial Member &
 Shri Manjunatha, G. Accountant Member

आयकर अपील सं./I.T.A. No.3066/Chny/2019
 निर्धारण वर्ष/Assessment Year: 2014-15

Smt. Devakumari,
 No. 48, Venkata Maistry Street,
 Mannady, Chennai 600 001.

Vs. The Assistant Commissioner of
 Income Tax,
 Non Corporate Circle 11,
 Chennai.

[PAN:AAGPD0150L]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

आयकर अपील सं./I.T.A. No.3181/Chny/2019
 निर्धारण वर्ष/Assessment Year: 2014-15

The Assistant Commissioner of
 Income Tax,
 Non Corporate Circle 11(1),
 Chennai.

Vs. Smt. Devakumari,
 No. 48, Venkata Maistry Street,
 Mannady, Chennai 600 001.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

Assessee by : Shri N. Arjun Raj, CA
 Department by : Shri D. Hema Bhupal, JCIT
 सुनवाई की तारीख/ Date of hearing : 30.08.2023
 घोषणा की तारीख /Date of Pronouncement : 13.09.2023

आदेश /ORDER

PER V. DURGA RAO, JUDICIAL MEMBER:

Both the cross appeals filed by the assessee as well as Revenue are directed against the order of the Id. Commissioner of Income Tax

(Appeals) 13, Chennai, dated 16.09.2019 relevant to the assessment year 2014-15.

2. Brief facts of the case are that the assessee filed the return of income for the assessment year 2014-15 on 02.10.2014 declaring total income of ₹.89,89,770/-. The case was selected for scrutiny through CASS and notice under section 143(2) of the Income Tax Act, 1961 ["Act" in short] was issued. After considering the details furnished by the assessee, the Assessing Officer has completed the assessment under section 143(3) of the Act dated 29.12.2016 assessing total income of the assessee at ₹.5,04,29,690/- after making various additions.

3. In the appellate order, the Id. CIT(A) has confirmed the addition on account of unsecured loan of ₹.23,72,057/- and deleted the addition of ₹.2,40,00,000/-. The assessee has received money from five creditors through banking channel. In the assessment order, the Assessing Officer has noted that in respect of 5 persons namely, B. Ramesh Babu, B. Rani (late) represented by her husband, B. Suresh Babu, B. Devi and B. Sathish Kumar, when asked to explain the nature and source of the transaction, the statement given by all the five were as follows:

Borrowed revolving loan facility against pledging of shares with Citicorp Finance (India) Limited and had advanced the same to Smt. Devakumari".

However, when asked for the source for the amount invested in shares and that was pledged for the loan in Citicorp Finance, the summoned persons have requested time till 09.12.2016. On perusal of the paper books submitted by them, the Assessing Officer noted that the above persons namely, B. Ramesh Babu, B. Rani (late) represented by her husband, B. Suresh Babu, B. Devi and B. Sathish Kumar have advanced a loan of ₹.2,40,00,000/- to Smt. Devakumari by way of RTGS transfer. The Assessing Officer has further noted that on the face of it, the transactions were made to look absolutely genuine as the loans were taken by RTGS/account payee cheque, the depositors had filed their returns of income, had prepared their accounts, had their own bank accounts and six of the above had even appeared before the Assessing Officer. The Assessing Officer has observed that unfortunately, on a deep scrutiny into the pile of documents furnished by the AR and the assessee, in assessment proceedings, clearly revealed the manipulations and the manner in which cash was deposited in the bank accounts of the above mentioned depositors immediately prior to issuing the cheques to the assessee. Merely because the transactions were through the bank account, accordingly, it cannot be presumed that the transactions were genuine. Mere payment by account payee cheque is not sacrosanct nor can it make a non-genuine transaction genuine. Before the Assessing

Officer, the assessee also agitated against the enquiry into the source of source of the loans by relying on some court decision during the course of assessment proceedings. Since the assessee has not established the creditworthiness of the depositors/lenders and genuineness of the transactions and that the loans of ₹.3,07,71,007/- represent bogus accommodation entries where the assessee had schemed to use his family members and their bank accounts to generate capital for the business, the Assessing Officer issued show-cause notice proposing to disallow the same and added back under section 68 of the Act. After considering the submissions of the assessee, the Assessing Officer has disallowed the entire unsecured loans of ₹.3,07,71,007/- and brought to tax under section 68 of the Act. On appeal, after considering the submissions of the assessee as well as facts of the case, the Id. Held that out of ₹.3,07,71,007/-, addition to the extent of ₹.2,85,00,000/- needs deletion and the addition the extent of ₹.22,71,007/- and interest thereon of ₹.1,01,050/- totalling to $22,71,007 + 1,01,050 = 23,72,057$ is only confirmed and partly allowed the ground raised by the assessee.

4. On being aggrieved, the assessee is in appeal before the Tribunal against confirmation of addition of ₹.23,72,057/- on account of unsecured loan. The Id. Counsel for the assessee has submitted that the provisions

of section 68 of the Act had no application to the facts of the case and the Id. CIT(A) ought to have appreciated that the initial onus cast upon the assessee had been fully discharged in placing all details on record and thus, prayed for deleting the above addition confirmed by the Id. CIT(A).

5. On the other hand, the Revenue has also filed an appeal [ITA No. 3181/Chny/2019] against deletion of addition towards unsecured loans taken to the extent of ₹.2.40 crores and the addition deleted by the Id. CIT(A) of ₹.2.85 crores as well as allowing the interest of ₹.7,62,738/- on the above unsecured loans and submitted that the Id. CIT(A) was not correct to hold that the assessee has discharged her responsibility of proving the genuineness of loans taken to the extent of ₹.2.40 crores without satisfying himself about the creditworthiness of the loan creditors and genuineness of unsecured loans taken by the assessee.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below including paper books filed by the assessee. In this case, the assessee had taken loan of ₹.2,40,00,000/- from B. Suresh Babu, B. Ramesh Babu, B. Sathish Kumar, B. Rani, and B. Devi. All the above creditors are income-tax assesseees and the loan amounts was advanced through banking channel by RTGS and have also confirmed the transactions when they appeared

before the Assessing Officer in response to the summons issued and statement recorded. The Assessing Officer disbelieved the credits was that the creditor's income shown was meagre and presumed that they would not have been in a position to advance such huge sums. The creditors have explained that the loans were undisputedly advanced from borrowals from Citicorp Finance (India) Ltd. by pledging the shares. The Assessing Officer further called upon the creditors to explain the sources for the amount invested in shares which they explained as the immediate source for the loan and they were all by RTGS transfers. All the creditors were having PAN and admitted the transactions and therefore the initial onus on the assessee to prove the identity of the creditors and their creditworthiness and genuineness of transactions was discharged. In view of the above facts and circumstances and after verifying the details of the assessee, the Id. CIT(A) was of the opinion that there was no case for the Assessing Officer to treat the credits as unexplained under section 68 of the Act without disproving the assessee's contention, which the Assessing Officer failed to do. Accordingly, the Id. CIT(A) deleted the addition of ₹.2,40,00,000/-.

6.1 Regarding the loan of ₹.35,00,000/- from S. Sethuraman [₹.13,50,000] and S. Chandra [₹.13,50,000/-], K.T. Shanmugham minor

HUF [₹.8,00,000], the only objection of the Assessing Officer was that they are all having same address and PAN. The only objection of the Assessing Officer was that they are all having same address and PAN. Before the Id. CIT(A) the assessee has submitted that they are all income tax assesseees, confirmed the transactions and given the loan through banking channels. In respect of the loan of ₹.10,00,000/- from Mrs. R. Vijayalakshmi, the Assessing Officer has not adduced any reason for disbelieving/disproving the credits. Since the assessee had discharged her initial onus again of proving the credit whereas, the Assessing Officer appears to have failed to discharged his onus to disprove the same and accordingly, the Id. CIT(A) deleted the addition of ₹.45 lakhs made as unexplained loan under section 68 of the Act.

6.2 Before the Tribunal, the Revenue has filed an appeal against deletion of addition towards unsecured loans taken to the extent of ₹.2.40 crores as well as allowing the interest of ₹.7,62,738/- on the above unsecured loans. Against the total deletion of addition towards unsecured loans of ₹.2,85,00,000/-, by accepting the deletion of addition of unsecured loans to the extent of ₹.45 lakhs, the Revenue has not raised any ground in its appeal before the Tribunal. Against the loan amount of ₹.45 lakhs, the loan creditors are income tax assesseees, confirmed the

transactions and moreover, the transactions were made through banking channel by RTGS and the assessee has discharged her initial onus of proving the credit and therefore, the Id. CIT(A) has deleted the loan of ₹.45 lakhs, which was duly accepted by the Department. On similar facts and circumstances, Against the loan amount of ₹.2,40,00,000/- received from B. Suresh Babu, B. Ramesh Babu, B. Sathish Kumar, B. Rani, and B. Devi also the above five creditors are income tax assesseees, having PAN, the loan amount was advanced through banking channel by RTGS and have also confirmed the transactions when appeared before the Assessing Officer in response to the summons issued and statement recorded. Since the assessee has discharged her initial onus to prove the identity of the creditors and their creditworthiness and genuineness of the transactions, the Id. CIT(A) deleted the addition.

6.3 On perusal of the assessment order, we find that the Assessing Officer has confirmed that the above five loan creditors are income tax assesseees, have filed their returns of income for the assessment year 2014-15 and also the transactions were made through banking channel by RTGS. On further enquiry made by the Assessing Officer through summons under section 131 of the Act towards source of source, they have given the following statements:

Borrowed revolving loan facility against pledging of shares with Citicorp Finance (India) Limited and had advanced the same to Smt. Devakumari”.

We have also perused the detailed paper book filed by the assessee containing reply to the objections of the Assessing Officer filing copies of the ITR, copies of bank pass book, copies of the “Revolving loan facility-cum-pledge etc., running from page No. 81 to 545. With regard to creditworthiness of the creditors, the assessee filed copies of agreement with Citicorp Finance (India) Ltd. at paper book page Nos. 113 to 123 in respect of B. Suresh Babu, B. Rani at page 148 to 150, B. Ramesh Babu at page 207 to 210, B. Satishkumar at page 327 to 338 and Citi bank statement of account of B. Devi from page 361 to 364.

6.4 Once the assessee has discharged the onus cast upon her with regard to identity of the creditors, their creditworthiness and genuineness of transactions, we are of the considered opinion that there would not be any case for the Department to treat the credits as unexplained under section 68 of the Act. Moreover, since the Department has accepted the deletion of addition of ₹.45 lakhs loan on similar facts and circumstances, we are of the considered opinion that the Department has no case to find fault in the appellate order towards deleting the addition on account of unsecured loan received by the assessee to the extent of ₹.2.40 crores

along with interest on the above unsecured loans. Accordingly, the grounds raised by the Revenue are dismissed.

7. In the appeal filed by the assessee, the first ground relates to confirmation of addition on account of unsecured loan to the extent of ₹.23,72,057/- which includes interest thereon. In the assessment order, the Assessing Officer has noted that the assessee has claimed to have received loans from two minor viz., S. Goutham Raj of ₹.13,37,982/- and Minor B. Satvika of ₹.9,33,025/- out of the gifts received from the parental grandparents, who are none other than the assessee and her husband. Accordingly, the Assessing Officer treated the above unsecured loan as unexplained and brought to tax. On appeal, by observing that the loans are from minors out of the gifts received from the assessee and her husband, the Id. CIT(A) has held that it cannot be said to be genuine and the minors have no independent source of funds to advance the loan. Accordingly, the Id. CIT(A) confirmed the addition of ₹.22,71,007/- as unexplained credit under section 68 of the Act as well as disallowance of interest relating thereon of ₹.1,01,050/-.

7.1 Before us, the Id. Counsel for the assessee has submitted that both the minors have received gifts in the previous assessment year and the amounts were lying in the bank accounts of the minors unused. Thus, the

minors offered loans to the assessee out of their savings. In support of the above, the Id. Counsel for the assessee has relied upon the statement of account, bank details, income tax return, etc. filed in the form of paper book and prayed for deleting the addition made by the Assessing Officer and confirmed by the Id. CIT(A).

7.2 On the other hand, the Id. DR strongly supported the order of the Id. CIT(A) on this issue.

7.3 We have considered the rival contentions. The assessee has received loan from the minors S. Goutham Raj and B. Satvika of ₹.13,37,982/- and ₹.9,33,025/- respectively. It is an admitted fact that the minors have been receiving gifts in earlier years. In fact, there was no debit entry in their SB account. To offer a loan, credit balances in their accounts are required. Out of their bank balance, the minors have offered loans to the assessee. When they have sufficient credit in their accounts, creditworthiness cannot be questioned. More so, both the minors have furnished their income tax returns, which were duly agreed by the Department. Thus, we are of the opinion that the Id. CIT(A) was not correct to held that the minors have no independent source of funds to advance the loans. Accordingly, we reverse the orders of authorities below and delete the addition of ₹.22,71,007/- as well as interest relating

thereon of ₹.1,01,050/-. Thus, the ground raised by the assessee is allowed.

8. The next ground raised in the appeal of the assessee relates to confirmation of addition on account of factory maintenance expenditure aggregating to ₹.8,83,600/-. The assessee has claimed expenses for ₹.16,77,965/- on account of factory maintenance and debited the same in the profit and loss account. On verification of the ledger account pertaining to factory maintenance expenses, the Assessing Officer has noted that the assessee has made payment of ₹.8,83,600/- to S. Srinivasalu (Engineering Works), Chetpet, Chennai. In the absence of any confirmation, bills of the same and corresponding extract from the bank statements reflecting those transaction, ITR/PAN, etc. the Assessing Officer disallowed the same and brought to tax. On appeal, the Id. CIT(A) confirmed the addition made by the Assessing Officer.

8.1 Before us, by referring to the paper book pages 512 to 518, the Id. Counsel for the assessee has submitted that besides furnishing detailed confirmation of payment of ₹.8,83,600/- on accounts of factory maintenance expenses, the assessee has also brought on record the copy of ITR, PAN and Aadhar, etc. towards her claim and prayed for deleting the addition.

8.2 On the other hand, the Id. DR supported the order passed by the Id. CIT(A).

8.3 We have heard the rival contentions and also perused the paper book pages referred by the Id. Counsel. The assessee has claimed expenses for ₹.16,77,965/- on account of factory maintenance and debited the same in the profit and loss account, out of which the payments made to S. Srinivasalu (Engineering Works) to the extent of ₹.8,83,600/- were disallowed by the Assessing Officer by disbelieving the identity of the individual for which Aadhar, PAN & ITR copies were furnished besides written confirmation furnished by Shri S. Srinivasalu. It has been stated in the assessment order that the Assessing Officer has deputed the Inspector to make enquiry and it came to light that S. Srinivasalu was not traceable in the said address as was in the bills produced by the assessee, but, it was accepted that there exists in the above address, Sri Vinayaka Agencies. First of all, in the assessment order, report of the Inspector was not brought on record and secondly, when in the address there exists Sri Vinayaka Agencies, the Inspector should have made enquiry. Before the Assessing Officer the assessee has submitted that the said person Mr. S. Srinivasalu was doing business individually in the relevant previous year and subsequently doing the

business in the name of Sri Vinayaka Agencies. However, we are unable to understand as to why the Assessing Officer has not issued any summon under section 131 of the Act to Shri S. Srinivasalu to appear before him and to record the statements. It appears that the Id. CIT(A) has also not bothered to make enquiry before confirming the addition. Once the assessee has furnished detailed confirmation of payment of ₹.8,83,600/- on accounts of factory maintenance expenses, to prove the identity of Shri S. Srinivasalu, copy of Aadhar, PAN, ITR, etc. were brought on record, we are of the considered opinion that the assessee has discharged the primary onus cast upon her and thus, the above addition made by the Assessing Officer is liable to be deleted. Accordingly, The addition made on account of disallowance of factory maintenance expenses at ₹ 8,83,600/- stands deleted and the ground raised by the assessee is allowed.

9. The next ground raised in the appeal of the assessee relates to partly confirming addition of ₹.5,00,000/- towards payment of electricity charges. In the profit and loss account, the assessee has debited ₹.21,73,053/- under the head electricity charges. The assessee was asked to produce EB bills/EB cards, etc. However, the assessee has submitted only the bank statement reflecting the payment of EB bills

showing consolidated payment. Since the assessee could not furnish even three months bill to check the genuineness of the same and to rule out the possibility of personal expense, the Assessing Officer disallowed ₹.10,00,000/- against the claim of electricity expenses of ₹.21,73,053/-. On appeal, the Id. CIT(A) granted relief to the extent of ₹.5,00,000/- and confirmed the balance addition of ₹.5,00,000/-. Though the assessee claims to have made payment to the TNEB and the element of personal usage cannot be ruled out in the absence of production of electricity bills, we sustain the addition to the extent of ₹.2,00,000/- out of addition confirmed by the Id. CIT(A) to the extent of ₹.5.00 lakhs and the balance addition of ₹.3,00,000/- stands sustained.

10. The next ground relates to confirmation of addition of ₹.3,00,730/- being depreciation and vehicle maintenance expenses. The assessee has debited a sum of ₹.7,29,164/- towards vehicle maintenance. These expenses have been claimed as incurred for business purpose. However, no log-book was maintained in respect of the usage of motor car and expenses cannot be said to be incurred exclusively for the purpose of business of the assessee. On perusal of the personal capital account of the assessee, the Assessing Officer has noted that the assessee does not have any other vehicle individually. Accordingly, the Assessing Officer

disallowed a sum of ₹.72,916/- being 10% of such expenses as incurred for personal purpose. Similarly, ₹.2,27,817/- out of the total depreciation on vehicle amounting to ₹.22,78,173/- was disallowed and brought to tax.

10.1 The assessee carried the matter in appeal before the Id. CIT(A). Before the Id. CIT(A), the assessee did not object to the disallowance of car maintenance expenses of ₹.72,916/-, but only disputed the disallowance of depreciation. The Id. CIT(A) has observed that under section 38(2) of the Act, where an asset was not exclusively used for the purpose of business, the deduction under section 32 of the Act should also be restricted to a fair proportionate part thereof. In this case, 10% of the expenditure on maintenance of car was disallowed towards personal use, thereby, the Id. CIT(A) has observed that the Assessing Officer was justified in disallowing 10% of the depreciation on car. Since the assessee has not given the correct depreciation on car claimed, the Assessing Officer has taken 10% of the total depreciation claimed under the 15% block and disallowed the depreciation. Accordingly, the Id. CIT(A) confirmed the disallowance of ₹.2,27,817/- under depreciation and total disallowance at ₹.3,00,7230/- under car maintenance expenses. We find no infirmity in the above findings of the Id. CIT(A) and thus, the ground raise by the assessee is dismissed.

11. The next ground raised in the appeal of the assessee relates to confirmation of addition of ₹.2,00,000/- on account of insufficient drawings over and above the addition made by the Assessing Officer. Upon verification of the balance sheet and P&L account of the assessee for the AY 2014-15, the Assessing Officer has noted that the assessee had drawn ₹. 1,80,000/- as drawing towards personal expenses. The assessee is having a turnover of about ₹. 37 crores and also drawing of ₹. 12,00,000/- as salary from Metro Power Transmission (P) Ltd during the PY 2013-14. Since the drawings shown by the assessee was very low, the Assessing Officer has show-caused the assessee as to why an additional amount of ₹.2,00,000/- should not be added on account of insufficient drawings to the income of the assessee. The assessee has submitted before the Assessing Officer that the total drawings debited for her and two of her family members amounts to ₹.4,63,360/-. In addition, there are separate additions for LIC, Corporation and Water Tax. After considering the submissions of the assessee, the Assessing Officer has held that the assessee cannot claim relaxations as per their convenience and thus opined that the additions to drawings were proposed on the basis of the material available with regards to the assessee and as such keeping the above in view and the status of the assessee, ₹.2,00,000/-

more was added back to drawing of the assessee and added to the returned income.

11.1 The assessee carried the matter in appeal before the Id. CIT(A). After considering the submissions of the assessee, the Id. CIT(A) has observed as under:

19.2 I agree with the AO on this ground. Given the salary she earns and the social status she maintains total drawings debited for her and her family members of ₹.4,63,360/- including all cess, taxes, besides savings, travelling, medical bills etc. of just Rs.2 lakhs appears clearly on her lower side and therefore addition of another 2 lakhs thereto appears reasonable and fair in the totality of the facts and circumstances of the case. This ground is partly allowed.

Considering the turnover of the assessee at about ₹.37 crores and also drawing of ₹.12,00,000/- as salary from Metro Power Transmission (P) Ltd. during the previous year 2013-14, the drawings towards personal expenses shown by the assessee appears to be very low and accordingly, the Assessing Officer enhanced an additional amount of ₹.2.00 lakhs. The Id. CIT(A) has also observed that the addition of another 2 lakhs thereto the personal expenses appears to be reasonable and fair in totality of the facts and circumstances of the case. Thus, we find no reason to interfere with the order passed by the Id. CIT(A) on this issue and accordingly, the ground raised by the assessee is dismissed.

12. The last ground raised in the appeal of the assessee relates to partly confirming the computation of income from house property of ₹.3,78,000/-. On a perusal of the computation of income statement filed by the assessee, the Assessing Officer has noticed that the property in Triplicane was shown with a rental value of ₹. 6,45,740/- for the year (break-up of the rental income was produced). On verification, the Assessing Officer found that the assessee had offered rental income, from the apartment she owned from 5 tenants only. The assessee has declared six flats to be vacant in that ground +3 floor apartments. After discussing with the AR of the assessee, the Assessing Officer has ascertained that the property was occupied for own use in the preceding PY 2013-14 and the same was not let out during the year. In order to verify the genuineness of the claim, assessee was asked to produce the EB bills and EB cards for the six vacant flats. However, the assessee could not furnish the same despite several opportunities afforded by the Assessing Officer. Accordingly, the Assessing Officer has estimated the annual value of the rental income generated from the property at ₹. 7500/- per month for 12 months for each of the six flats. (₹.7,500x12x6) based on the data available from the public domain considering the location and specifications of the property and the assessee was show-caused as to why the same may not be added to the total income. After

considering the submissions of the assessee and since the assessee has failed to establish the genuineness of her claim by not furnishing the EB bills/EB cards for the six vacant flats, the Assessing Officer has disallowed the sum of ₹.5,40,000/- [7500x12x6] and added back to the total income returned.

12.1 The assessee carried the matter in appeal before the Id. CIT(A). After considering the submissions of the assessee, the Id. CIT(A) has observed that as per section 23(1)(c) of the Act, when the property was let and was vacant during the year then the amount of rent received or receivable can be assessed as annual value. Since the assessee claimed that the property was vacant for the whole year and not let out for any period during the year, the Id. CIT(A) opined that the assessee may not be entitled to any relief and has to pay tax on the notional rent. Accordingly, the Id. CIT(A) confirmed the findings of the Assessing Officer that the notional rent has to be assessed as property income. However, since the Assessing Officer has assessed the entire gross rental of ₹.5,40,000/- as income without giving statutory deduction at 30% of the annual value, the Id. CIT(A) has confirmed the addition to the extent of ₹.3,78,000/- after granting statutory deduction of ₹. 1,62,000/- being 30% of ₹. 5,40,000/-. Before us, the Id. Counsel for the assessee could not

controvert the above findings of the Id. CIT(A) and accordingly, the addition confirmed by the Id. CIT(A) stands sustained.

13. In the result, the appeal filed by the assessee is partly allowed and the appeal of the Revenue is dismissed.

Order pronounced on 13th September, 2023 at Chennai.

Sd/-
(MANJUNATHA, G.)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 13.09.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.