

आयकर अपीलिय अधिकरण, 'सी'(एस एम सी) न्यायपीठ,चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' (SMC) BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT**

आयकर अपील सं./ITA No.: **1139/CHNY/2023**

निर्धारण वर्ष/Assessment Year:2005-06

**J.F. Chit Funds Pvt. Ltd.,**  
83, Acharappan Street,  
Sowcarpet,  
Chennai – 600 001.

**The Deputy Commissioner  
of Income Tax,**  
Vs. Central Circle -2(4),  
Chennai.

**PAN: AAACJ 1790K**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Ms. Sree Valli Lakshmi, Advocate  
: Shri G. Suresh, JCIT

सुनवाई की तारीख/Date of Hearing : 03.01.2024

घोषणा की तारीख/Date of Pronouncement : 10.01.2024

**आदेश /ORDER**

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), Chennai in Order No.ITBA/APL/S/250/2023-24/1056586268(1) dated 27.09.2023. The assessment was framed by the Assistant Commissioner of Income Tax, Central Circle-II(4), Chennai for the assessment year 2005-06 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 27.12.2007.

2. The only issue in this appeal of assessee is as against the order of CIT(A) confirming the action of AO in making addition of Rs.20,96,817/- claimed by assessee to be received on account of chit fund subscriptions collected during the previous years.

3. Brief facts are that the AO added this amount of Rs.20,96,817/- as the assessee could not file any details and could not prove the receipt of subscription amount. The AO observed as under:-

*“Going through the details furnished by the assessee, it is seen that the assessee has received Rs.20,96,817/- as subscription to the chits during the year. The assessee was asked to furnish the details for these chits like name and address of the persons, date, amount and mode of receipt etc, with documentary evidences like bank pass book, receipts etc. It is seen that the assessee has not furnished any details inspite of giving several opportunities. Under the circumstances, the receipt of the subscription amounting to Rs.20,96,817/- which is not proved by the assessee is treated as not genuine and added back to the taxable income.”*

Aggrieved, assessee preferred appeal before CIT(A).

4. The CIT(A) also confirmed the action of the AO despite the fact that the assessee produced bank account statements showing payments to various persons, payments flowing from chit subscriptions and amount received through banking channels to the

extent of Rs.17,40,032/- and in cash amounting to Rs.3,56,785/-.

The CIT(A) confirmed the action of the AO by observing as under:-

*“(e) The authorized representative produced bank account statements showing certain payouts to various persons. The said payments were said to be flowing from chit subscriptions made by those persons. The appellant contended that out of a total chit subscription of Rs.20,96,817/-, Rs.17,40,032/- was through banking channel and Rs.3,56,785/- was through cash. There was no evidence whatsoever for amounts paid through banking channels, also by the chit subscribers. The names of chit subscribers were given in a ledger with corresponding amount of total amount of subscription. The same would have been paid in a monthly cycle. Even if all the payments of chit subscribers is bunched together and deposited, the cheques credited/cash deposited would have some narration. The figures mentioned in chit subscription and corresponding payouts with date and amount of payout also do not match. Thus, due to lack of reconciliation and evidence, the addition of Rs.20,96,817/- stands sustained. Thus, in the result, the appeal is partly allowed.”*

Aggrieved, assessee preferred appeal before the Tribunal.

5. I have heard rival contentions and gone through facts and circumstances of the case. The Id.counsel for the assessee before me pointed out that the complete details of subscriptions received and payouts and pay-in, both are enclosed in assessee's paper-book at pages 7 to 10 and the bank account statement is enclosed at pages 23 to 47. On query from the Bench, the Id.counsel for the

assessee tallied entry of Rs.3,99,500/- received on 07.10.2004, which is tallied at page 38, wherein in Canara Bank account on 08.10.2004, this was withdrawn at Rs.3,99,500/- and given to assessee by chit operator. This is explained on test check basis and similar are the other entries, which are received by cheque.

6. When this was pointed out to Id. Senior DR, he stated that the matter can be restored back to the file of the AO to verify these details. At this point, the Id.counsel for the assessee stated that all these details are filed with AO and that the CIT(A) also. He narrated that all these details were filed before CIT(A) for the first time and the CIT(A) sent these papers to AO for submitting 'remand report'. He drew my attention to this fact that AO has not submitted remand report till now. He took me to para 3.5 of CIT(A) order, which reads as under:-

*“3.5. As the Assessing Officer’s remand report is not complete this office has written again to the Assessing Officer calling for a detailed remand report. The same was not received as on date.”*

7. I have gone through the facts in entirety and noted that the payments received by cheque are tallied and explained by assessee i.e., amounting to Rs.17,40,032/- and hence, I delete this addition. As regards to amount received in cash of Rs.3,56,785/-, there is no

evidence to substantiate the claim and hence, I have no hesitation in confirming and restricting the addition to that extent. Hence, addition of Rs.3,56,785/- is confirmed and the appeal of the assessee is partly-allowed.

8. In the result, the appeal filed by the assessee is partly-allowed.

Order pronounced in the open court on 10<sup>th</sup> January, 2024 at Chennai.

Sd/-

(महावीर सिंह)

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 10<sup>th</sup> January, 2024

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त /CIT

4. विभागीय प्रतिनिधि/DR

5. गार्ड फाईल/GF.