

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

**माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI V. DURGA RAO, JM AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकर अपील सं./ ITA No.1505/Chny/2023**  
**(निर्धारण वर्ष / Assessment Year: 2017-18)**

**&**

**Stay Application No.44/Chny/2023**  
**(In ITA No.1505/Chny/2023)**  
**(निर्धारण वर्ष/Assessment Year :2017-18)**

<b>Shri Srinivasan SV.Veerasamy</b> 7/3, Pandrimalai Swamigal Street, Balakrishnapuram Post, Dindigul-624 005.	<b>बनम</b> / Vs.	<b>ACIT</b> Circle-(1), Dindigul.
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. ARPPS-3176-D</b>		
<b>(अपीलार्थी/Appellant)</b>	<b>:</b>	<b>(प्रत्यर्थी / Respondent)</b>

<b>अपीलार्थी की ओर से/ Appellant by</b>	<b>:</b>	<b>Shri K.G. Raghunath (Advocate)- Ld.AR</b>
<b>प्रत्यर्थी की ओर से/Respondent by</b>	<b>:</b>	<b>Shri D. Hema Bhupal (JCIT)-Ld. Sr. DR</b>

<b>सुनवाई की तारीख/Date of Hearing</b>	<b>:</b>	<b>17-01-2024</b>
<b>घोषणा की तारीख /Date of Pronouncement</b>	<b>:</b>	<b>13-03-2024</b>

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. The sole substantive grievance of the assessee in the captioned appeal is confirmation of addition of unexplained cash credit for Rs.130.60 Lacs u/s.68 as made by Ld. Assessing Officer (AO) while framing an assessment u/s 143(3) on 31-12-2019. The assessee's

further appeal to learned first appellate authority met with no success and accordingly, the assessee is in further appeal before us.

2. The Ld. AR advanced arguments and assailed the impugned addition on the ground that the additions have been made merely by comparing two financial statements whereas there are no actual cash credits in the books of accounts. The Ld. Sr. DR supported the orders of lower authorities. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

3. During the course of assessment proceedings, it transpired that the assessee's capital increased from Rs.79.49 Lacs to Rs.419.07 Lacs. The assessee explained that there was no increase in capital. For obtaining the loan from bank, the figures were reinstated and the capital account was increased correspondingly.

4. The Ld. AO, after comparing the Balance Sheet as on 31.03.2016 and 31.03.2017, concurred that the assessee revalued the building from Rs.81.29 Lacs to Rs.235.71 Lacs without there being any new investment in the building. However, with respect to increase in value of the remaining asset, the assessee could not explain the same. Therefore, the remaining increase in capital for Rs.130.60 Lacs was added to the income of the assessee as unexplained cash credit u/s 68 of the Act. The stand of Ld. AO, upon confirmation by Ld. CIT(A), is in further challenge before us.

5. From the facts, it emerges that the assessee has reinstated its assets and liabilities and the differential in the same has been credited in the capital account. There is no finding that there is new introduction of capital through banking channels. The Ld. AO has accepted the fact that

the building was revalued and the increase in the same was credited to capital account. The sales turnover as reflected by the assessee duly matches with the Service Tax returns and there is no suppression of sales, in any manner. The only reason to make the addition is the fact that the assessee could not explain the increase in value of the remaining assets. However, there is increase in the value of liabilities with corresponding increase in the value of assets. In the absence of any finding that there is actual introduction of new capital through cash or banking channels, no addition could have been made u/s 68 since it is the primary requirement that there should be cash credit in the books of accounts. The same is missing in the present case. Therefore, the impugned addition as made by Ld. AO invoking the provisions of Sec.68 is not sustainable in law. The case law of Hon'ble High Court of Madras in the case of **M/s V.R.Global Energy Pvt. Ltd. (TCA No.246 of 2017 dated 06.08.2018)** duly supports the case of the assessee. The Hon'ble Court, in para-20, concurred that when there was no cash involved in the transaction of allotment of shares, the provisions of Section 68 of the Act treating it as unexplained cash credit are not attracted. Therefore, we delete the impugned addition and allow the appeal of the assessee.

6. The appeal stand allowed in terms of our above order. The connected stay application has been rendered infructuous and hence, dismissed.

*Order pronounced on 13<sup>th</sup> March, 2024*

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

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

चेन्नईChennai; दिनांकDated :13-03-2024  
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**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF