

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

मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं  
मजनीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।  
**BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
**AND HON'BLE SHRI MANU KUMAR GIRI, JM**

**आयकर अपील सं. ITA No.194/Chny/2024**  
**(निर्धारणवर्ष / Assessment Year: 2014-15)**

<b>M/s. Anjappar Chettinad A/c</b> <b>Restaurant Chrompet</b> 187/156, GST Road, Chrompet, Chennai-600 044.	<b>बनम/</b> Vs.	<b>DCIT</b> Central Circle-1(3) Chennai
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. <b>AANFA-4272-F</b>		
(पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओरसे/ <b>Appellant by</b>	:	S/Shri V.Padmanabhan & Venkat Raman (CAs)- Ld. ARs
प्रत्यर्थी की ओरसे/ <b>Respondent by</b>	:	Shri Nilay Baran Som (CIT)-Ld. Sr. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	19-06-2024
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	24-06-2024

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2014-15 arises out of an order of learned Commissioner of Income Tax (Appeals)-18, Chennai [CIT(A)] dated 29-11-2023 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 153C on 30-03-2023. The sole grievance of the assessee is confirmation of addition of Rs.42.20 Lacs u/s 69B. Having heard rival submissions, the appeal is disposed-off as under.

2. The assessment was so framed pursuant to search action u/s 132 on assessee group of cases on 03-01-2019. During search, an agreement dated 09-05-2013 was seized vide ANN/KVK/AM/B&D/S which was entered into by the assessee with M/ Arun Engineering for purchase of certain property by the assessee which was situated at SIPCOT, Guindy, Chennai. As per the agreement, the property was agreed to be purchased for Rs.635 Lacs. However, a sale deed was executed on 10-10-2013 for consideration of Rs.592.80 Lacs. The Ld. AO alleged that the amount of Rs.42.20 Lacs was paid over and above registered sale consideration. One of the partners, in the sworn statement admitted to have paid cash for Rs.42.20 Lacs and offered the same as unaccounted income in the hands of the firm. The Ld. AO invoking the provisions of Sec.69B brought the differential amount of Rs.42.20 Lacs to tax.

3. During appellate proceedings, the assessee brought to notice that supplementary deed for revision of sale consideration was executed on 12-06-2013. In the agreement, the sale consideration was revised to Rs.595 Lacs due to non-clearance of encumbrances by the seller. However, Ld. CIT(A) rejected the same on the ground that the retraction was much later. The revision agreement was not available in the searched premises. The genuineness of the revised agreement was under doubt. No details of encumbrances were furnished by the assessee. Therefore, the said plea was stated to be mere after-thought the hence, rejected. Aggrieved, the assessee is in further appeal before us.

### **Our findings and Adjudication**

4. The copy of sale agreement as seized by the department has been placed on page nos. 1 to 7 of the paper-book. Upon perusal of the same, it could be seen that the sale consideration of property has been fixed at Rs.635 Lacs. The assessee has paid an advance of Rs.40 Lacs vide Cheque No.208095 dated 01-08-2013. The balance consideration is stated to be payable at the time of registration. There is no mention of any cash consideration in the same. Subsequently, revaluation agreement has entered into by the assessee on 12-06-2013 which is kept on page nos.20 to 23 of the paper-book. As per revaluation agreement, the seller being unable to clear the encumbrances, has agreed for revised consideration of Rs.595 Lacs. The assessee has purchased the property with encumbrances i.e., *As is where is condition* basis. Finally, sale deed has been executed on 10-10-2013 at revised consideration of Rs.592.80 Lacs which is kept on page nos. 8 to 19 of the paper-book. Upon perusal of all these documents, it could be seen that there is no mention of any cash consideration from assessee to the seller. Except for sworn statement of the partner, there is nothing with Ld. AO to prove the allegation that the assessee paid some sale consideration in cash. It is noteworthy that no enquiry whatsoever has been made by Ld. AO from the seller of the property and the allegation of Ld. AO remains unsubstantiated particularly when the statement has been retracted by the assessee along with production of revaluation agreement which support the aforesaid retraction. When the documents do not support any flow of cash consideration, the impugned addition, in our considered opinion, is not sustainable. The final sale consideration has to be seen in the context of registered sale deed only and not on the

basis of mere unregistered agreements. Therefore, by deleting the impugned addition, we allow the appeal of the assessee.

5. The appeal stand allowed.

*Order pronounced on 24<sup>th</sup> June, 2024*

<b>Sd/-</b> <b>(MANU KUMAR GIRI)</b> न्यायिक सदस्य / JUDICIAL MEMBER	<b>Sd/-</b> <b>(MANOJ KUMAR AGGARWAL)</b> लेखक सदस्य / ACCOUNTANT MEMBER
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चेन्नई Chennai; दिनांक Dated : 24-06-2024  
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**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

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