

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI  
श्री एसएस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री जगदीश, लेखा सदस्य के समक्ष ।  
Before Shri S.S. Viswanethra Ravi, Judicial Member &  
Shri Jagadish, Accountant Member

आयकर अपील सं./I.T.A. Nos.267 and 268/Chny/2024  
निर्धारण वर्ष/Assessment Years: 2015-16 & 2016-17

Thirumurugan Traders,  
11-B, East Kongalamman Koil Street,  
Erode 638 001.

Vs. The Income Tax Officer,  
Ward 1(1),  
Erode.

**[PAN: AABFT2766P]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Sridhar, Advocate, Erode.  
प्रत्यर्थी की ओर से/Respondent by : Ms. R. Anita, Addl. CIT  
सुनवाई की तारीख/ Date of hearing : 08.08.2024  
घोषणा की तारीख /Date of Pronouncement : 23.08.2024

**आदेश /O R D E R**

**PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:**

Both the appeals filed by the assessee are directed against different orders both dated 04.12.2023 passed by the Id. Commissioner of Income Tax (Appeals), NFAC Delhi for the assessment years 2015-16 and 2016-17.

2. Since both the appeals are filed by same assessee and issues raised in the appeals are similar based on the same identical facts, with the consent of the both the parties, we proceed to hear both the appeals together and pass consolidated order for the sake of convenience.

3. We shall take up appeal in ITA No. 267/Chny/2024 for AY 2015-16.
4. Ground No. 1 is general in nature and requires no adjudication.
5. Ground Nos. 2 & 3 raised by the assessee questioning the order of the Id. CIT(A) in confirming the view of the Assessing Officer in treating the revised return of income as invalid.
  
6. The Id. AR Shri S. Sridhar, Advocate submits that the assessee filed return of income declaring a total income of ₹.4,41,480/- on 29.09.2015 under section 139(1) of the Income Tax Act, 1961 ["Act" in short]. Thereafter, a survey was conducted on 17.03.2017, in response to which, the assessee filed revised return of income on 31.03.2017 declaring same income as admitted in the original return of income filed under section 139(1) of the Act. He drew our attention to para 8 of the assessment order and submits that the finding of the Assessing Officer in treating the revised return as invalid is not justified. The Id. AR argued that the Assessing Officer made addition under section 68 of the Act only on the basis of revised return, but treated the revised return of income as invalid, is not correct. He drew our attention to the notice under section 143(2) of the Act dated 18.09.2017 and submits that the said notice was also issued in response to revised return of income and considering the reply given by the assessee therein, in response to the said notice under

section 143(2) of the Act, the Assessing Officer made the impugned addition, which is not maintainable. He argued that the Id. CIT(A) erred in considering the fact that the Assessing Officer issued notice under section 143(2) of the Act in respect of the revised return of income and submits that itself amounts to valid return of income, argued vehemently that the Id. CIT(A) erred in confirming the view of the Assessing Officer in treating the said return is invalid. The Assessing Officer did not find anything wrong in the revised return of income after having issued notice under section 143(2) of the Act but while making the addition i.e., difference in cash as unexplained based on the revised return, but treated the said revised return of income as invalid.

7. The Id. DR Ms. R. Anita, Addl. CIT relied on the order of the Id. CIT(A).

8. Heard both the parties and perused the materials available on record. Admittedly, the assessee filed revised return of income in view of the survey on 17.03.2017, wherein, he admitted the same income as declared in the original return of income filed under section 139(1) of the Act. There is no doubt regarding the issuance of notice under section 143(2) of the Act by the Assessing Officer in response to the revised return of income and made disallowance under section 68 of the Act

considering the revised return of income. While relying on revised return of income and reply therein in response to notice under section 143(2) of the Act, the Assessing Officer completed the assessment in terms of the revised return of income, but, however, treating the same as invalid as reflected in para 8 of the assessment order, in our opinion is not justified. We, therefore, hold the revised return, based on which notice under section 143(2) of the Act has been issued is valid return and since the assessee has disclosed cash of ₹.42,34,151/- as on 31.03.2015, no further addition of cash difference in original and revised return of ₹.41,44,936/- under section 68 of the Act is called for. Thus, ground Nos. 2 & 3 raised by the assessee are allowed.

9. In view of our view taken in ground Nos. 2 & 3, the issues raised in ground Nos. 4, 5 & 6 becomes academic and requires no adjudication.

**ITA No. 268/Chny/2024 – AY: 2016-17**

10. Ground No. 1 is general in nature and requires no adjudication.

11. Ground No. 5 raised by the assessee is dismissed as not pressed.

12. Ground Nos. 2, 3 & 4 raised by the assessee in challenging the action of the Id. CIT(A) in not considering the revised VAT returns reflecting increased in sales.

13. We note that the assessee filed its return of income originally on 16.10.2016 declaring total income of ₹.5,03,533/-. In response to the survey on 17.03.2017, the assessee filed revised return of income declaring the same income as admitted in the original return of income, but, only with a deviation of showing sales and cash on hand. According to the Assessing Officer, the assessee considerably increased the sales and reduced closing stock, thereby to show increased cash on hand, claiming the same as deposit of cash in bank. Further we note that the Assessing Officer observed that the assessee appeared and produced books of account with all relevant documents. The Assessing Officer, considering the difference of sales/turnover and closing stock as per the original return of income and revised return of income, held an amount of ₹.1,17,85,027/- was added. The Id. CIT(A) confirmed the order of the Assessing Officer.

14. The Id. AR drew our attention to the order of Indore Bench of ITAT in the case of ACIT v. Dewas Soya Limited in ITA No. 336/Ind/2012 dated 31.10.2012 and the order of Ahmedabad Bench of ITAT in the case of Shree Sanand Textiles Industries Ltd. v. DCIT in ITA No. 995/Ahd/2014 & Ors dated 06.01.2020, which are placed at page 29 and 67 of the paper book respectively. He argued that the assessee shown the turnover in the

sales tax return at ₹.12,84,95,001/-, which was accepted and not disputed by the assessing authority. He argued that the observation of the Assessing Officer that the assessee intentionally revised the return to show increase in sales and reduction in closing stock, is not correct. We note that nothing was brought on record by the Department that the turnover as admitted in the sales tax return is incorrect and therefore, it establishes that the assessee correctly shown the sales and closing stock leading to cash on hand, which is directly matching with the cash deposits made into the bank account. Thus, the order of the Id. CIT(A) in confirming the addition is not justified. Accordingly, the grounds raised by the assessee are allowed.

15. In the result, both the appeals filed by the assessee are allowed.

Order pronounced on 23<sup>rd</sup> August, 2024 at Chennai.

Sd/-  
(JAGADISH)  
ACCOUNTANT MEMBER

Sd/-  
(S.S. VISWANETHRA RAVI)  
JUDICIAL MEMBER

Chennai, Dated, 23.08.2024

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant,
2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR &
5. गार्ड फाईल/GF.