

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

**माननीय श्री एबी टी. वर्की, न्यायिक सदस्य एवं  
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।  
BEFORE HON’BLE SHRI ABY T. VARKEY, JM AND  
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकर अपील सं./ ITA No.1295/Chny/2024  
(निर्धारणवर्ष / Assessment Year: 2011-12)**

Smt. Pozhaniappan Malliga 21/20-A, Perumpalipatty Elur Post Namakkal – 637 018	<b>बनाम/ Vs.</b>	ITO Ward -3 Namakkal
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. <b>AQCPM-9517-A</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Shri T.S.Lakshmi Venkataraman (CA)- Ld. AR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Dr. Samuel Pitta (JCIT) -Ld. DR

सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	21-08-2024
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	03-09-2024

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2011-12 arises out of the order of learned Addl. / Joint Commissioner of Income Tax (Appeals)-5, Mumbai [CIT(A)] dated 13.03.2024 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s.144 r.w.s. 147 of the Act on 28.11.2018. The sole grievance of the assessee is assessment of income of Rs.14.60 Lacs which represent cash deposits in the savings bank account. The Ld. CIT(A) confirmed the same against which the assessee is in further appeal before us. The assessee assails

the reopening on legal grounds also. Having heard rival submissions, the appeal is disposed-off as under.

2. From assessment order, it could be seen that the assessee is stated to have deposited cash of Rs.14.45 Lacs in her savings bank account maintained with Karur Vysya Bank Ltd. The assessee did not file return of income and accordingly, the case was reopened and notice u/s 148 was issued on 24.03.2018. The assessee failed to file any return of income or adduce any explanations. Finally, Ld. AO assessed the deposits on best judgment basis as unexplained money u/s 69A.

3. During appellate proceedings, the assessee stated that it was dealing in agricultural products and it filed return of income on 28.12.2018 admitting income of Rs.1.63 Lacs u/s 44AD. The return of income was filed after completion of the assessment proceedings. The assessee submitted that primary account holder was the husband of the assessee and the assessee was merely a joint holder. The bank does not belong to the assessee. The Ld. CIT(A) rejected the same on the ground that assessee herself reflected these receipts in her bank account. Finally, the additions were confirmed against which the assessee is in further appeal before us.

4. The Ld. AR has taken a legal ground that the approval for reopening of assessment has been given by Ld. Pr. CIT, Salem on 21.03.2018 in respect of 401 cases as recommended by Range Head. Giving approval for 401 cases on a singled day would show complete non-application of mind by Ld. Pr. CIT in giving approval in terms of Sec.151. Therefore, the proceedings would be bad-in-law. The revenue, on the other hand, has filed response of Income Tax Officer, Ward-2, Namakkal wherein it has been submitted that the approval has been

given on 22.03.2018 through ITBA portal. Additionally, ITO (H.Qrs.), O/o The Pr. CIT, Salem has sent combined approval order dated 22.03.2018 by manually to all Assessing Offices for record purposes. After receipt of approval on ITBA portal, the notice u/s 148 was prepared on 24.03.2018 and delivered through assessee's email on 27.03.2018. Notice u/s 148 was also dispatched through registered post. Accordingly, the proceedings were initiated with prior approval of the higher authorities.

5. Upon perusal of documents as placed on record, we find that a proposal has been moved Ld. Joint CIT on 20.03.2018 seeking approval of Ld. Pr. CIT to reopen 307 cases as per list attached. The reasons for reopening have been specified in the attached list. The Ld. Pr. CIT has approved the reopening on 21.03.2018. The form for recording the reasons for initiating proceedings u/s 148 and for obtaining the approval of Ld. Pr. CIT by Ld. ITO, Ward-2, Namakkal is also on record. The same elaborates the formation of belief of escapement of income in the case of the assessee. Upon perusal of all these documents, it could very well be concluded that the reopening was with proper formation of belief with requisite approval of appropriate authorities as required under law. No infirmity could be seen by us in reopening the case of the assessee. We are of the considered opinion that as long as there is due application of mind, the reopening of assessment could not be faulted with. The argument that approval could not be given to such a large number of cases in a single day is bereft of any logic or merits since there is no mandate of law which puts such an embargo on the approving authority as long as there is due application of mind. Therefore, the legal grounds as urged by Ld. AR stand rejected.

6. On merits, the Ld. AR has reiterated that the husband of the assessee is the primary account holder and the deposits do not belong to the assessee. However, upon perusal of return of income of husband of the assessee, it could be seen that interest earned on this bank account has not been reflected therein. Secondly, the husband has received contractual payment after deduction of TDS. Nothing has been shown to us that the said contract payments were received by the husband in cash and the impugned bank account was taken into consideration by the husband while filing his return of income. Therefore, this argument of Ld. AR is also to be rejected at the outset.

7. Upon perusal of statement of bank account under consideration, it could be seen that there are cash deposits as well as cash withdrawals. The cash withdrawals are to the extent of Rs.7.20 Lacs. To that extent, the source of subsequent deposits by the assessee could be accepted. Therefore, we direct Ld. AO to grant the benefit of cash withdrawals of Rs.7.20 Lacs. The remaining addition stand confirmed.

8. The appeal stands partly allowed.

*Order pronounced on 3<sup>rd</sup> September, 2024*

**Sd/-**  
**(ABY T. VARKEY)**  
**न्यायिक सदस्य / JUDICIAL MEMBER**

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

चेन्नई Chennai; दिनांक Dated :03-09-2024  
DS

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

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