

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

**माननीय श्री महावीर सिंह, उपध्यक्ष एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकर अपील सं. ITA No.314/Chny/2020**  
**(निर्धारण वर्ष / Assessment Year: 2012-13)**

Shri T.M. Ramalingam No.113, Palani Road, Ganapathipalayam South Kolinjivadi Post, Dharapuram, Tiruppur-638 673.	<b>बनाम</b> / Vs.	ACIT Central Circle-2 Coimbatore.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. <b>ADOPR-7424-C</b>		
(पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओरसे/ <b>Appellant by</b>	:	Shri I. Dinesh (Advocate)-Ld. AR
प्रत्यर्थी की ओरसे/ <b>Respondent by</b>	:	Shri Nilay Baran Som (CIT) –Ld. DR
सुनवाई की तारीख/ <b>Date of Hearing</b>	:	01-07-2024
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	04-09-2024

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1.1 Aforesaid appeal by assessee for Assessment Year (AY) 2012-13 arises out of order of learned Commissioner of Income Tax (Appeals)-19, Chennai [CIT(A)] dated 18-12-2019 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s.153A r.w.s 254 of the Act on 30-12-2017. The concise grounds taken by the assessee are as under:

1. The CIT(A) erred in failing to annul the entire assessment as the same has been framed in the absence of incriminating material and undisclosed income.
2. The CIT(A) grossly erred in upholding the addition of Rs.2,25,86,094/- as the income of the appellant without considering the financials submitted much before the search, submissions and evidences placed before him.
3. The CIT(A) erred in failing to delete the exorbitant interest u/s.234B of the Act.

As is evident, the sole issue that fall for our consideration is addition of Rs.225.86 Lacs. The ground relating to interest u/s 234B is merely consequential in nature.

1.2 This is second round of appeal. It emerges that originally the assessee was assessed u/s 153A r.w.s. 143(3) on 31-03-2015. The assessment reached up-to Tribunal vide ITA Nos.2300/Mds/2015 & ors. common order dated 13-04-2016 for AYs 2007-08 to 2013-14 wherein the assessment was restored back to the file of Ld. AO for fresh adjudication. Pursuant to the same, another assessment has been framed on 30-12-2017 which, upon confirmation by Ld. CIT(A), is in further appeal before us.

1.3 The Ld. AR advanced arguments to submit that the return of income was filed much before the date of search. In the return of income, the transaction was reflected as loan only and therefore, the same could not be considered to be the income of the assessee. The Ld. AR also filed written submissions. The Ld. CIT-DR controverted the arguments of Ld. AR and submitted that the loan, in fact, was in the nature of income of the assessee. The Ld. CIT-DR also filed written submissions. Having heard rival submissions, oral as well as written and upon perusal of case records, our adjudication would be as under.

1.4 The assessee being resident individual earned income from business during the year. The assessee is stated to be trader in agricultural products. The assessee was searched on 31-12-2012. During search, fixed deposits / time deposits held with certain banks was seized vide Annexure ANN/TMR/Bank Deposits/F&S. Notice u/s

153A was issued to the assessee on 12-09-2013 and the assessee filed return of income on 03-12-2013.

### **Assessment Proceedings**

2.1 In the set-aside proceedings. Ld. AO in para 2, noted that no fresh evidences were filed by the assessee regarding impugned addition and accordingly, the addition made in the original assessment order has been made in this order also.

2.2 It was noted by Ld. AO that the assessee was issued show-caused notice during original assessment proceedings on 23-03-2015 wherein it was alleged that the assessee received impugned amount of Rs.225.86 Lacs in the name of a company wherein the assessee and his wife was shareholders. The enquiries revealed that the assessee floated a company in Singapore with the name Bharaneedhar Pte. Ltd. (BPL, Singapore) on 09-03-2012 which received an amount of USD 476001 from a company named Gold GB Pte Ltd. (GBPL). The enquiries with GBPL revealed that the said company had been defrauded by the assessee and police complaint was also lodged against assessee's name by the said company. M/s BPL, Singapore was stated to be dormant company with few transactions only. The amount was transferred by M/s BPL, Singapore to another entity by the name Bharaneedhar Refineries (P.) Ltd. (BRPL) in India. This entity was also floated by the assessee. This entity also did not have any transactions. The amount so transferred from Singapore was stated to be withdrawn and kept as fixed deposits in assessee's name and in the name of the company with State Bank of India and Karur Vysya Bank Ltd. During search, certain other documents were found which revealed that the assessee was trying to enter into agreements with

businesses promising them to lend them huge funds though the assessee had no such funds at its disposal. Against the same, the assessee obtained various sums. On the basis of the same, Ld. AO alleged that the assessee was carrying on suspicious and fraudulent transactions to obtain pecuniary gain. Under these circumstances, taking the same view as taken in original assessment order, the amount of Rs.225.86 Lacs was added to the income of the assessee. Aggrieved, the assessee preferred further appeal before first appellate authority.

### **Appellate Proceedings**

3.1 The adjudication of legal ground as urged by the assessee was rejected in para-6 of the impugned order in terms of various judicial decisions.

3.2 The Ld. CIT(A), having considered factual matrix, rendered following findings: -

- (i) The company in Singapore is not involved in any activity and merely used for transfer of funds.
- (ii) The company of Singapore is not filing any financial statements either to the government of Singapore nor any such financials are shown to the Indian assessing authorities or in appeal.
- (iii) The Indian company also is not engaged in any business for the year under consideration and the two companies in the Singapore and India are used as conduits to transfer money for the eventual beneficiary that is the appellant.
- (iv) He is the director of these companies and the operator of the entire scheme of transferring the money from Singapore to India. And eventually holding that money in FDs in his name and in the name of his company.
- (v) The Singapore party that is Gold GB Pte Ltd. though has alleged that they have been defrauded of the money by the appellant and have lodged a complaint to that effect with the

Singapore police authorities but still it does not explain the source of the money. It is still not certain whether this entity is also a part of the scheme of transfer of money by using multiple layers of shell companies. The AO in view of these doubts only has held this transaction to be a suspicious transaction.

(vi) Since this transaction is suspicious it also implies that the same is unexplained and hence the amount which is eventually beneficially owned by the appellant cannot be considered as explained. Therefore, I am of the opinion that AO has rightly assessed the same as unexplained receipt of income from the avocation involving suspicious transactions. The same is upheld.

(vii) The appellant tries to project this as a loan transaction by stating that loan was given by Singapore company to Indian Company. But in reality the loan agreement is signed by only one person representing two parties i.e. by Shri Ramalingam who is the director in both the companies. The loan transactions is actually a kind of cloak of legitimacy to transfer the receipt from the avocation in Singapore and evade the tax. This argument of the appellant does not carry any force.

3.3 Since this income was upheld in the case of the assessee in the substantive manner, the addition made by the AO in the case of the company i.e., BRPL on protective basis was deleted. Aggrieved as aforesaid, the assessee is in further appeal before us.

#### **Our findings and Adjudication**

4. The Ld. AR has impressed upon the arguments that the aforesaid transaction was merely a loan transaction and therefore, the same could not be treated as income of the assessee. To derive home the point, Ld. AR has referred to the financial statements and Income Tax returns of the assessee as well as that of BRPL, India wherein these transactions have been reflected as loan transactions. The papers relating to BPL, Singapore has also been placed on record. However, it is noteworthy that the assessee himself is managing the two entities

and practically, Singapore entity as well as Indian entity is not carrying out any substantial activity of its own. It has been stated that BRPL, India has obtained a loan from Singapore entity on 01-03-2012 which was for a period of 5 years. The loan was received through banking channels. Since the fund could not be utilized immediately, the same was deposited in the bank account and the same continue to be parked as such till this date pending utilization. Therefore, impugned addition could not be sustained. The Ld. AR has also pleaded that no incriminating material was unearthed during search. The Ld. CIT-DR has controverted the arguments of Ld. AR.

5. From the facts, it clearly emerges that the Singapore entity is merely been used as a conduit entity to transfer the funds to Indian entity. Though Indian entity is separate corporate entity, the funds so obtained by the corporate entity has been withdrawn by the individual assessee and parked in his own name in fixed deposits. They continue to be parked as such and till date i.e., after lapse of more than 12 years, nothing has been shown to us that any repayment of the loan, has ever happened from assessee to Indian entity and thereafter, to Singapore Entity who has ultimately funded the same from GBPL. This is despite the fact that the funds continue to be kept in Fixed Deposits. It is another aspect that GBPL has lodged a police complaint against assessee on allegation of fraud. On these facts, it could very well be concluded that the fixed deposits are nothing but for all practical purposes, has partaken the character of income of the individual assessee. Therefore, we do not find any fault in the adjudication of Ld. CIT(A). Ground No.2 stand dismissed.

6. In Ground No.1, the assessee has submitted that in the absence of incriminating material, impugned addition could not be made. However, it could be seen that the assessee is a non-filer and did not file regular return of income. The search has happened on the assessee on 31-12-2012. Therefore, in our considered opinion, Ld. AO was well within its power to assume jurisdiction u/s 153A to assess any kind of income that has accrued to the assessee in this year. This ground stand rejected. The computation of interest u/s 234B is consequential in nature which does not require any specific adjudication on our part.

7. The appeal stand dismissed.

*Order pronounced on 4<sup>th</sup> September, 2024*

*Sd/-*  
**(MAHAVIR SINGH)**  
उपाध्यक्ष / **VICE PRESIDENT**

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

चेन्नई Chennai; दिनांक Dated :04-09-2024  
DS

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

1. अपीलार्थी/Assessee
2. प्रत्यर्थी/Revenue
3. आयकरआयुक्त/CIT Coimbatore
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF