

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'C' BENCH: CHENNAI**

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री जगदीश, लेखक सदस्य के समक्ष  
**BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND**  
**SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1643/Chny/2017  
निर्धारण वर्ष /Assessment Year: 2013-14

The Asst. Commissioner of Income  
Tax,  
Corporate Circle-2,  
Madurai.

**Vs.** M/s. Senthamarai Marbles &  
Granites Pvt. Ltd.,  
73A, DD Road, Aarapalayam,  
Madurai – 625 016.  
[PAN: AAECG 8084H]

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Assessee by

: Shri K. Ravi, Advocate &  
Shri Varun Ranganathan, Advocate

प्रत्यर्थी की ओर से /Revenue by

: Shri R. Clement Ramesh Kumar, CIT

सुनवाई की तारीख/Date of Hearing

: 20.06.2024

घोषणा की तारीख /Date of Pronouncement

: 18.09.2024

आदेश / **ORDER**

**PER JAGADISH, A.M :**

Aforesaid appeal filed by the Revenue arises out of the order of Learned Commissioner of Income Tax (Appeals)-1, [hereinafter "CIT(A)"] dated 24.03.2017 deleting the addition of Rs. 10,26,00,000/- made by Assessing Officer (A.O) on account of share capital u/s 68 in the hands of the assessee for the Assessing Year (AY) 2013-14.

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2. The grounds of appeal raised by the Revenue are as under:

*“1. The order of the CIT(A) is opposed to law on the facts and in the circumstances of the case.*

*2. The CIT(A) has erred in holding that the Assessing Officer did not cast any doubt regarding source in the hands of the M/s. Senthamarai Transport for availability of funds to the share holders.*

*3. The CIT(A) ought to have seen that the Assessing Officer after thoroughly examining the bank account statements, account copies of the parties and account copies of the assessee has passed a reasoned order that the assessee has not satisfactorily explained the source of share capital contribution from its account in a sum of Rs.10,26,00,000/- and hence ought to have sustained the addition made by the Assessing Officer.*

*4. The CIT(A) has erred in holding that there is no case for any addition u/s.68 by invoking proviso to the said section on the ground that the share capital contribution by M/s. Senthamarai Transport on behalf of share holders was duly reflected in the balance sheet and hence explained.*

*5. The CIT(A) ought to have seen that the Assessing Officer has made addition as per proviso to section 68 only on the finding that the assessee's explanation regarding share contribution of share holders aggregating of Rs.10,26,00,000/- is found to be not satisfactory and hence ought to have sustained the addition.*

*6. For these and such other grounds that may be adduced at the time of hearing it is prayed that the order of the CIT(A) may be reversed and that of the Assessing Officer restored.”*

3. The brief fact of the case are that the assessee-company was incorporated on 17.07.2012. Hence, assessment year under consideration is the first year of assessment of the assessee. The assessee-company purchased a granite factory at SIDCO Industrial Estate, Phase-II, Hosur from one M/s. SVG Exports P. Ltd. For this Purpose, on 25.06.2012 a memorandum of understanding was signed

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by M/s. GG Exports on behalf of the assessee-company to be subsequently formed and M/s. SVG Exports p. Ltd. On 01.09.2012, sale agreement was executed between the buyer M/s. GG Marbles & Granites P. Ltd., which was the original name of the company formed on 17.7.2012 on whose behalf M/s. GG Exports signed the above said MoU dated 25.06.2012 and M/s. GG Exports as third party and M/s. SVG Exports P. Ltd the seller. Subsequently, the name of the assessee-company M/s. GG Marbles & Granites P. Ltd. was changed to M/s. Senthamarai Marbles & Granites P. Ltd. The share capital issued, subscribed and fully paid as per the balance sheet contained in the return of income is Rs. 10,26,00,000/-. The share holding as per balance sheet are shown as under:

<i>Name of the shareholder</i>	<i>Shareholding amount</i>
<i>RS Tamilselvan</i>	<i>5,12,75,000</i>
<i>T Ahila</i>	<i>1,28,37,500</i>
<i>T Varsha</i>	<i>1,28,37,500</i>
<i>E Akshaya</i>	<i>1,28,37,500</i>
<i>E Prasanna</i>	<i>1,28,37,500</i>
<i>E. Kanimozhi</i>	<i>25,000</i>

4. The A.O noticed that in the books of accounts and the ledger, share capital account shows four credits of Rs. 25,000/- each on 17.07.2012 totaling to Rs. 1,00,000/- , however name of creditors not mentioned. The AO also noticed that in the ledger there is another account by the name of share application money in which following entries are found:

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<i>Date</i>		<i>Voucher type</i>	<i>Debit Rs.</i>	<i>Credit Rs.</i>
01.07.2012	GG Granites	Journal	--	1,00,00,000/-
18.02.2013	SVG Capital a/c.	Journal	--	25,00,000/-
31.03.2013	Advance for plant purchased	Journal	--	20,00,000/-
	GG Exports	Journal	--	6,00,00,000/-
	GGM a/c.	Journal	--	2,55,00,000/-
	Senthamarai Transport-Chennai	Journal	--	10,25,00,000/-

5. The A.O has made the addition on share capital of Rs. 10,26,00,000/- u/s. 68 of the Act . The AO made addition of Rs 1,00,000 on the ground that shareholders name against four cash credit entry of Rs. 25,000/- each on 17.07.2012 not mentioned. As regard to the addition of Rs. 10,25,00,000/-, the A.O did not accept assessee's explanation that shareholders RS Tamilselvan, T. Ahila, T. Varsha, E. Akshaya & E.Prasanna have not invested any money in the equity capital but the fund where invested from M/s. Senthamarai Transport in which the shareholders were partners and since, the company does not allow a partnership firm to be a shareholder of a company in its own name the shares were allotted to individuals in the family and share investments were debited to personal accounts of the allottee in the books of M/s. Senthamarai Transport.

6. On appeal, the Ld. CIT(A) after examining the journal entry through which share capital were credited and the account of M/s. Senthamarai Transport found that shareholders have not made any

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payment to assessee company for allotment of the shares directly, but the payments were made by M/s. Senthamarai Transports indirectly on behalf of shareholders. These payments were made to SVG Exports , GG Exports , GG Granites and G Gopalkrishnan which were transferred to assessee company and accounted for in assessee's books as share capital and capital advance by way of journal entry. The Ld. CIT(A) held that the A.O's objection that balance sheet of individual shareholders did not reflect the capital contribution was irrelevant as the source of capital was explained by sundry debtors balance in the books of M/s. Senthamarai Transports. The Ld. CIT(A) concluded that the assessee satisfactorily explained the source of the capital contribution as withdrawal from Senthamarai Transport and duly reflected in its balance sheet and deleted the addition.

7. The Ld. Departmental Representative (DR) has contended that since the amount was not directly credited to the company's account and the capital contribution was not reflected in the balance sheet of individual shareholders, the genuineness of the transaction was not proved.

8. The Ld. Authorized Representative (A.R) for the assessee reiterated that the source of Rs. 10,25,00,000/- was clearly reflected in

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the balance sheet of M/s. Senthamarai Transports whether all shareholders were partners. The Ld. AR further submitted that the payments were made through banking channel and thus, the genuineness of the transaction could not be doubted.

9. We have heard the rival submissions, and perused the materials available on record. The assessee has received Rs 1,00,000 cash as initial share capital and accounted through four credit entry without mentioning any name . Before Ld CIT(A) , it has stated that initial share capital was cash received from M/s Senthiamari transport Rs 50,000 from R S Tamilselval and Rs50,000 from T . Ahila. In the balance sheet Rs 25,000 is shown against E. Kanimozhi. We find that the assessee has failed to provide the identity of the persons contributing Rs. 1,00,000/- along with source of cash , for four cash entries of Rs. 25,000/- each on 17.07.2012. It has also not been brought on record that there was withdrawal of Rs. 1,00,000/- in cash from M/s. Senthamarai Transports to make investment in cash in the share capital. In the absence of such of details, the Ld CIT(A) was not justified to delete the addition of share capital made in cash. Hence, the addition of Rs. 1,00,000/- made by the A.O is confirmed.

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10. As regards to the share capital of Rs. 10,25,00,000/-, the Ld CIT(A) has examined the payment of Rs 10,25,00,000 made to M/s G G Granites , SVG Exports , G G Exports and G Gopalkrishana through banking channel by Senthamarai Transport, which has been subsequently transferred in assessee company and accounted as share capital and capital in Advance . The Ld CIT(A) has examined the balance sheet of M/s Senthamarai transport , where source of fund as well as shares in the assessee company are duly reflected. We agree with Ld. CIT(A) that assessee has satisfactorily explained that the amount was paid by M/s. Senthamarai Transports on behalf of the shareholders and the source of these funds are duly reflected in M/s. Senthamarai Transports balance sheet. The payments were made through banking channel and the transaction appears genuine. Therefore, the finding of Ld. CIT(A) in this regard is upheld.

11. In the result, the appeal filed by the Revenue is partly allowed.

*Order pronounced on 18<sup>th</sup> September, 2024*

Sd/-

(यस यस विश्वनेत्र रवि)  
(SS Viswanethra Ravi)

न्यायिक सदस्य / Judicial Member

Sd/-

(जगदीश)  
(Jagadish)

लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 18<sup>th</sup> September, 2024.

EDN/-

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आदेश की प्रतिलिपि □ ग्रेषित/**Copy to:**

1. □ पीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Madurai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF