

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 Nos.149 & 150/Chny/2024  
निर्धारण वर्ष /Assessment Years: 2012-13 & 2013-14

Gunasekaran Vellayan,  
No.9/1-140A, Subramaniya Nagar,  
Pudusampalli, Mettur,  
Salem – 636 403.  
[PAN: AJMPG 2317F]

**Vs.** The Income Tax Officer,  
Ward-1(8),  
Salem.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by

: Shri T.S. Lakshmi Venkatraman,

FCA

प्रत्यर्थी की ओर से /Respondent by

: Ms. R. Anita, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 14.08.2024

घोषणा की तारीख /Date of Pronouncement

: 18.09.2024

**आदेश / ORDER**

**PER JAGADISH, A.M :**

Aforesaid two appeals filed by the assessee for Assessment Year (AYs) 2012-13 & 2013-14 arises out of the common order of Learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 11.01.2024 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s. 144 r.w.s 147 of the Income-tax Act, 1961 (hereinafter "the Act") vide order dated 29.12.2019.

2. The facts in both the appeals of the assessee are identical and common hence, we proceed to pass a common order. For brevity, we shall take up the appeal in ITA No.149/Chny/2024 for A.Y 2013-13 as lead case.

3. The only effective ground of appeal in both the appeals is against confirming the addition of cash deposit in bank account.

4. The brief facts of the case are that the A.O has reopened the assessment on the basis of information that the assessee has made payment of Rs.1,33,83,333/-during Financial Year 2011-12 relevant to A.Y 2012-13 and a sum of Rs.39,11,667/- during Financial Year 2012-13 relevant to A.Y 2013-14 for purchase of land and building measuring 4.57 Acres by way of public auction of property of M/s. Mettur Textile Industries Ltd. conducted by Hon'ble High Court of Madras in the name of M/s. V.S. Enterprises but has not filed return of income. As the assessee has been non-complied to the notice issued u/s. 142(1) of the Act, the A.O has passed ex-parte order u/s. 144 of the Act and made the addition of cash deposit of Rs. 34,00,763/- in HDFC Bank and Rs.1,10,76,558/- in Central Bank of India u/s. 69A of the Act in A.Y 2011-12. On appeal, the Ld. CIT(A) has observed that the A.O while making addition on cash deposit has not considered the

interbank transfer and therefore, directed the A.O to reduce the amount of addition if any, of credits in the bank account of assessee, which are interbank transfer among his own bank accounts. The Ld. CIT(A) has also observed that as the assessee has not furnished the relevant details of cash withdrawn therefore, there is no need to consider the telescoping or peak credit while computing the addition on unexplained money in the bank account.

5. The Ld. Authorized Representative (AR) of the assessee has argued that the A.O and Ld. CIT(A) were not justified to add entire bank deposit without considering inter banking transfer and the cash withdrawal from banks which was subsequently deposited in bank. The Ld. AR has submitted that he has requested Ld. CIT(A) to call for a remand report to examine the bank statement as the assessment order was made ex-parte, but neither A.O nor Ld. CIT(A) examined the bank account.

6. The Ld. Departmental Representative, on the other hand, relied on the orders of the authorities below.

7. We have heard the rival submissions, and perused the materials available on record. The A.O has made the addition of cash deposit/inter banking transfer totaling to Rs. 1,44,77,321/- u/s. 69A of the Act of Rs. 66,06,873/- in the ex-parte order passed u/s. 144 of the Act. The Ld. CIT(A) has directed the A.O to reduce the interbank transfer, but not considered the telescoping or peak credit while computing the addition on unexplained money in the bank account. The Ld. CIT(A) had all the power of A.O and therefore, was expected to call for the remand report or examine the bank statement on his own and compute the correct income. We are of the opinion that keeping in view the principles of natural justice, the assessee be provided with another opportunity of hearing to substantiate his case before the A.O. Accordingly, we set aside the orders passed by the lower authorities and restore the matter back to the file of the A.O for *denovo* adjudication after giving reasonable opportunity to the assessee. We also direct the assessee to appear before the A.O on the date of hearing without fail. In view of the above, the appeal filed by the assessee is allowed for statistical purposes.

8. We find that the identical issue is involved in assessee's appeal in ITA No.150/Chny/2024 for A.Y 2013-14 also and accordingly, our

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adjudication above in A.Y 2012-13 is *mutatis mutandis* applies therein also. Hence, this appeal in ITA No.150/Chny/2021 for A.Y 2013-14 is allowed for statistical purposes.

6. In the result, both the appeals filed by the assessee are allowed for statistical purpose.

*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/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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