

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री जगदीश, लेखा सदस्य के समक्ष  
**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND**  
**SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.847 & 848/Chny/2023  
निर्धारण वर्ष /Assessment Year: 2007-08 & 2008-09

M/s. Lakshmi Gayathri Arvapalli,  
No.1, Palat Madhavan Road,  
Mahalingapuram,  
Chennai – 600 034.  
[PAN: AAIPA 3035F]

**Vs.** The Asst. Commissioner of  
Income Tax,  
Central Circle-1(2),  
Chennai.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by

: Shri J. Vignesh, C.A &  
Shri P.Venkatakrishnan, ITP

प्रत्यर्थी की ओर से /Respondent by

: Shri P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 09.07.2024

घोषणा की तारीख /Date of Pronouncement

: 30.09.2024

आदेश / **ORDER**

**PER JAGADISH, A.M :**

Aforesaid two appeals filed by the assessee for Assessment Year (AYs) 2007-08 & 2008-09 arises out of the common order of Learned Commissioner of Income Tax (Appeals)-18, Chennai [hereinafter "CIT(A)"] dated 30.05.2023 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) r.w.s 254(1) of the

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Income-tax Act, 1961 (hereinafter "the Act") vide orders dated 23.12.2019 & 24.12.2019, respectively.

2. The facts in both the appeals of the assessee are identical and issue is common hence, we proceed to pass a common order. For brevity, we shall take up the appeal in ITA No.847/Chny/2023 for A.Y 2007-08 as lead case. The grounds of appeal raised by the assessee for A.Y 2007-08 are as under:

*"1. The order of the Learned Commissioner of Income Tax Appeals, Chennai, in upholding the order of the assessing officer which itself was against law, principles of justice, weight of evidence and probabilities of the case of the appellant is against law, principles of justice, weight of evidence and probabilities of the case of the appellant.*

*2. The Learned Assessing Officer and Commissioner of Income Tax (Appeals) erred in bringing to tax a sum of Rs.3, 28, 42,884/- as undisclosed income under the provisions of Section 68 ignoring the fact that the said Section 68 is applicable to only to cash credits that are accounted in the books and not to other amounts like sales realizations, advances for sale of material and other trade advances.*

*3. The learned Assessing Officer and Commissioner of Income Tax (Appeals) erred in totally relying on the sworn in statement recorded from the appellant's husband which was later retraced and which does not have any evidentiary value after retraction and which was also not supported any tangible material.*

*4. The Learned Commissioner of Income Tax (Appeals) has erred in not considering the fact that provisions of Section 68 are not applicable for Trade advances and sales realizations*

*5. The Learned Commissioner of Income Tax Appeals has not adjudicated the question regarding veracity of the survey data based on which assessments were made.*

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6. *The Learned assessing officer has erred in upholding the assessment based on survey data and the rough books of account wherein this year's closing balances of this year, which are sought to be taxed, does not appear as opening balances in next year thus showing that these are not accidental accounts but only rough books thus violating the directions given by Honorable ITAT.*

7. *The Learned Commissioner of Income Tax (Appeals) has erred in questioning the cash receipts when sales pursuant to cash receipts from those parties were accepted without any dispute and when all quantitative details like raw material purchases, consumption in manufacturing, finished product produced, closing stock and sales are accepted and not disputed .*

8. *The Learned Commissioner of Income Tax (Appeals) has erred in stating that cash receipt of Rs.32842884/- which is sales realization from debtors or advance towards sales which was later covered sales as cash credit contrary to directions of the Tribunal. The Learned Commissioner of Income Tax has failed to consider that the impounded survey tally data for reconciliation was made available to the assessee appellant only Through RTI order dated 05.03.2020.*

9. *The Learned Commissioner of Income Tax (Appeals) has erred in not understanding that the assessee from the initial stage of reassessment has been stating that survey data is unreliable and audited books has to be considered.*

10. *The Learned Commissioner of Income Tax (Appeals) has failed to follow the directions of the Honorable Tribunal which is to see whether the cash received is adjusted against the sales or not.*

11. *The Learned Commissioner has failed to appreciate that the cash received is actually adjusted against the sales made even in case of Rajam Industries verified by him which is not even a subject matter of original assessment or the reassessment.*

12. *The Learned Commissioner of Income Tax (Appeals) has erred in sustaining additions for want of confirmation from the party Rajam Industries, which was not even the subject matter of original assessment or reassessment, when sales made to them were specifically accepted especially when the actual books of accounts were not rejected either by the assessing officers or CIT himself.*

13. *The appellant craves leave to furnish in case of a need or to file additional grounds if any on or before the hearing or at the time of hearing.*

*14. The Appellant prays that the Honorable ITAT may be pleased to quash the Appellate order as void and illegal or grant and give suitable remedy as prayed for and render justice to the Appellant.”*

3. The brief facts of the case are that the assessee is a proprietor of M/s. Srinivasa Chemical Enterprises which is engaged in the business of manufacturing and selling of chemicals and having unit at Pondicherry. A survey u/s. 133A of the Act was conducted on 14.02.2012. Subsequently, assessment was completed u/s. 143(3) r.w.s 147 of the Act making addition of Rs. 4,12,92,884/- on the basis of findings in survey that cash credits were not brought to the books as per document found in survey and earlier statement of assessee's husband admitting undisclosed income. On appeal, the Ld. CIT(A) deleted the addition and the Revenue filed an appeal against the above order. The Tribunal vide consolidated order in ITA NO.2519 to 2523/Chny/2016 dated 04.03.2019 restored the issue to the file of A.O for examination of details of buyers/customers who have given advances and whose details were furnished at the time of survey and as to whether the same is tallied with the actual account of the assessee and If the assessee is able to show the advances received to be culminated in sales and the sales have not been recorded in the books of the assessee, then admittedly no further addition would be

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called for in the hands of the assessee. Following the directions, the A.O completed the assessment u/s. 143(3) of the Act by adding Rs. 3,28,42,884/- u/s. 68 of the Act concluding that assessee has not been able to prove that advances received has culminated to sales and out of cash credit of Rs 4,12,92,884 only Rs 84,50,000 reflected in the balance sheet. The assessee filed appeal against the above addition and the Ld. CIT(A) has confirmed the above addition after considering the detailed submission by assessee and examining the accounts . Now the assessee is in appeal before us against the above addition.

4. The Ld. Authorized Representative (A.R) of the assessee has contended that the A.O had made the addition on the basis of rough documents found during the course of survey and on the basis of statement of the husband of the assessee, Shri A.V. Madhava Rao, which has been subsequently retracted. The Ld. AR has submitted that against the advances received, sales have been effected and recorded in the regular books , though there may be variation in the names found in the rough tally sheet during survey and names recorded in the audited books of account . The AR submitted that the Assessing Officer has not doubted the sales which tallies with VAT

return and the entry in the rough sheet were subsequently posted in the audited books of accounts and the sale has been effected to the parties from which advance was actually received.

5. The Ld. Departmental Representative (DR), on the other hand, supporting the orders passed by the lower authorities submitted that the assessment has been completed on the basis of survey conducted by department .During the survey it has been found that there are duplicate set of accounts in respect of cash advance received and Shri A.V. Madhara Rao, the husband of the assessee who managed the business has confirmed that these are unaccounted receipts. The Ld. DR further submitted that the Ld. CIT(A) has examined the explanation submitted by the assessee that sale has been effected to different persons from whom the advance was recorded in the rough book and after examining the account has rejected the explanation. The Ld CIT(A) has examined the account of M/s. Rajam Industries Pvt. Ltd., where there is difference of sundry debtor figure of Rs 2,24,58,328 in the survey data and audited data and doubted that entries made in audited books as number of cash entries of Rs 20,000 each day . The Ld DR submitted that assessee has not been able to submit even confirmation before Ld CIT(A).

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6. We have heard the rival submissions, and perused the materials available on record. The Co-ordinate Bench vide ITA No.2523/Chny/2016 dated 04.03.2019 in the above case has restored to the file of AO as per following direction :

*"The issue is restored to the file of the AO for examination of the details of the buyers/ customers who have given the advances and whose details were furnished at the time of survey and as to whether the same is tallied with the actual accounts of the assessee. If the assessee is able to show the advances received to be culminating in sales and the sales having been recorded in the books of the assessee, then admittedly no further addition would be called for in the hands of the assessee. With these directions, the issues in these appeal are restored to the file of the AO for verification of the same. "*

*"Coming to the issue of the reopening of assessment, which has been raised in the Cross-objections filed by the assessee, as the issue on merits are restored to the file of the AO for re-adjudication, we are not giving any finding on the re-opening of the assessment and consequently the issues are left open and restored to the file of the AO for re-adjudication."*

7. The A.O in earlier assessment based on the data found during survey has made the addition of Rs. 4,12,92,884/-, as unexplained cash advance received from the customers, but not accounted in the regular books of accounts. In the set aside assessment, the A.O has accepted Rs. 84,50,000/- as accounted in the regular books of accounts and therefore, has made the addition of Rs. 3,28,42,884/-. The A.O has noted that the assessee did not furnish any details for

verification as per the direction of ITAT to show that advance received culminated in sales and the sales have been recorded in the books of accounts. The Ld CIT(A) has considered the assessee's claim that many cash credits appearing in different parties in survey data relates to cash entries of Rs 20000 or below of M/s. Rajam Industries Pvt. Ltd in audited books and that in the survey data cash credit entries have wrongly been made in various parties instead of this party and rejected the claim as no iota of any evidence was furnished. The assessee neither before A.O nor before Ld. CIT(A) has been able to establish that cash advance received from parties as found during survey, has been cleared by subsequent sales. The Ld CIT(A) has considered all the issues raised and passed well-reasoned order. In view of the above, we do not find any infirmity in the order of Ld. CIT(A) and therefore, order of Ld. CIT(A) is confirmed. The appeal in ITA No.847/Chny/2023 for A.Y 2007-08 is dismissed accordingly.

8. The facts of A.Y 2008-09 are identical except that addition of Rs.13,12,379/- made u/s. 68 of the Act. Therefore, our adjudication above for A.Y 2007-08 is *mutatis mutandis* applies for A.Y 2008-09

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also. Hence, this appeal in ITA No.848/Chny/2023 for A.Y 2008-09 is dismissed.

9. In the result, both appeals filed by the assessee are dismissed.

*Order pronounced on 30<sup>th</sup> September, 2024.*

Sd/-  
(एबी टी. वर्की)  
(**ABY. T. Varkey**)

**न्यायिक सदस्य / Judicial Member**

Sd/-  
(जगदीश)  
(**Jagadish**)

**लेखा सदस्य / Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 30<sup>th</sup> September, 2024.

EDN/-

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

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