आयकर अपीलीय अधिकरण "सी" न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"C" 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

1. आयकरअपील सं. / ITA No.1024/Chny/2024
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. V. Sathyamoorthy & Co. 41, Patel Road, Near Blood Bank, Erode-638 001.	बनाम/ Vs.	**DCIT** Central Circle-2 Coimbatore.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. **AACFV-0222-D**		
(अपीलार्थी/**Appellant**)	:	(प्रत्यर्थी / **Respondent**)

&

2. आयकरअपील सं./ ITA No.1547/Chny/2024
(निर्धारण वर्ष / Assessment Year: 2020-21)

DCIT Central Circle-2 Coimbatore.	बनाम/ Vs.	**M/s. V. Sathyamoorthy & Co.,** 41, Patel Road, Near Blood Bank, Erode-638 001.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. **AACFV-0222-D**		
(अपीलार्थी/**Appellant**)	:	(प्रत्यर्थी / **Respondent**)

अपीलार्थी की ओर से/ **Assessee by**	:	Shri S. Sridhar (Advocate)- Ld.AR
प्रत्यर्थी की ओर से/**Revenue by**	:	Shri R. Clement Ramesh Kumar (CIT)-Ld. DR

सुनवाईकीतारीख/**Date of Hearing**	:	29-07-2024
घोषणाकीतारीख /**Date of Pronouncement**	:	17-10-2024

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1.1 Aforesaid cross-appeals for Assessment Year (AY) 2020-21 arises out of an order passed by learned Commissioner of Income Tax (Appeals), Chennai-20, [CIT(A)] on 31-03-2024 in the matter of an

assessment framed by Ld. Assessing Officer (AO) u/s 143(3) r.w.s. 153A of the Act on 04-05-2022.

1.2 The grounds raised by the assessee read as under: -

1. The order of the CIT (Appeals) - 20, Chennai dated 31.03.2024 vide DIN & Order No. ITBA/APL/S/250/2023-24/1063746207(1) for the abovementioned Assessment Year is contrary to law, fact and in circumstances of the case.
2. The CIT (Appeals) - 20, Chennai erred in confirming the assumption of jurisdiction under Section 153A of the Act and further erred in confirming the search assessment order passed in terms of Section 153A of the Act without assigning proper reasons and justification.
3. The CIT (Appeals) - 20, Chennai failed to appreciate that the search assessment completed by making the disputed addition(s) in the absence of valid incriminating seized material relatable to such addition(s) should be reckoned as nullity in raw and further ought to have appreciated that the judicial trend in this regard was completely over looked and brushed aside in passing the impugned order there by vitiating the related findings.
4. The CIT (Appeals) - 20, Chennai failed to appreciate that the search assessment order under consideration was passed out of time, invalid, passed without jurisdiction and not sustainable both on facts and in law.
5. The CIT (Appeals) - 20, Chennai erred in confirming the addition of Rs.4,93,51,199/- being purchases claimed in books of account maintained by the appellant based on excel sheet found at the time of search without assigning proper reasons and justification.
6. The CIT (Appeals) failed to appreciate that the disputed purchases were genuine and further ought to have appreciated that the confirmations were furnished from all the parties pertaining to the disputed purchases establishing its genuineness there by vitiating the related findings in the impugned order.
7. The CIT (Appeals) failed to appreciate that the disputed purchases were made through proper banking channels and further ought to have appreciated that in the absence of any conclusive evidence with respect to the flow of money returned to the Appellant, the presumption of bogus purchases is wholly unjustified and not sustainable both on facts and in law.
8. The CIT (Appeals) failed to appreciate that the Appellant had suo-moto disallowed the purchases pertaining to the seized excel sheet with respect to parties from whom money were received back in its return of income filed in response to the notice issued u/s 153A of the Act and further ought to have appreciated that having not disputed the turnover reported by the Appellant, the denial of claim of purchases relatable to such sale should be reckoned as nullity in law.
9. The CIT (Appeals) failed to appreciate that in any event the assessment of disputed purchases in its entirety is wholly unjustified and further ought to have appreciated that in any event the profit embedded on such purchases alone can be subjected to tax there by vitiating the partial addition sustained in this regard.
10. The CIT (Appeals) erred in sustaining the disallowance of Rs.16,82,220/- being the GST component embedded on the payments made to sub-contractors without assigning proper reasons and justification.
11. The CIT (Appeals) failed to appreciate that the GST component on such payments were not debited to the Profit & Loss Account and further ought to have appreciated that

the disallowance made in the absence of any claim for deduction was wholly unjustified and unwarranted.

12. The CIT (Appeals) failed to appreciate that in any event the disputed GST component was remitted to the Government there by vitiating the assessment of such sum in the hands of the Appellant firm in the impugned order.

13. The CIT (Appeals) erred in sustaining the addition of Rs.91,90,00,000/**-** as unexplained investment u/s 69 of the Act on the presumption of unaccounted loans advanced by the Appellant without assigning proper reasons and justification.

14. The CIT (Appeals) failed to appreciate that the provisions of Section 69 of the Act had no application to the facts of the present case and further ought to have appreciated that the pre-requisite conditions for attracting the provisions in Section 69 of the Act were not satisfied in the present case there by vitiating the addition made in this regard.

15. The CIT (Appeals) - 20, Chennai failed to appreciate that the excel sheet relied upon by the Assessing Officer should not be construed as *'incriminating seized material'* and further ought to have appreciated that the contents of the seized material had no evidentiary value in the absence of any corroborative evidence so as to justify the addition made in this regard.

16. The CIT (Appeals) - 20, Chennai failed to appreciate that there was no independent examination carried out by the Revenue to examine the said parties to test the stand of the Appellant and ought to have appreciated that there was no unaccounted financial transaction which could be deduced from the disputed seized material for making the addition.

17. The CIT (Appeals) - 20, Chennai failed to appreciate that financial transactions entered into by the Appellant during the financial year relevant to the assessment year under consideration were duly recorded in the books of accounts forming part of the return of income filed and hence ought to have appreciated that the addition made based on the invalid evidence backed by the Revenue's suspicion and surmises should he reckoned as nullity in law.

18. The CIT (Appeals) - 20, Chennai failed to appreciate that the explanation offered by the Appellant was not considered in proper perspective while dealing with the grounds raised and further ought to have appreciated that the factual position was further clarified by the Partner of the Appellant firm during the post search proceedings there by vitiating the related findings in the impugned order.

19. The CIT(Appeals) - 20, Chennai failed to appreciate that in any event the assessment of such presumed unexplained investment in the hands of the Appellant firm thereby negating the addition made in this regard.

20. The CIT (Appeals) - 20, Chennai failed to appreciate that the entire re computation of the taxable total income on various facets was wrong, erroneous, incorrect, invalid, unjustified and not sustainable both on facts and in law.

21. The CIT (Appeals) - 20, Chennai failed to appreciate that there was no effective/reasonable opportunity granted before passing the impugned order and search assessment order and further ought to have appreciated that any order passed in violation to the Principles of Natural Justice should be reckoned as nullity in law.

1.3 The grounds raised by the revenue read as under: -

1. The order of the learned Commissioner of income Tax (Appeals) is erroneous on facts of the case and in law.

2.The Ld.CIT(A) erred in deleting the addition of Rs.2,09,82,608/- made towards bogus purchases as evidenced by seized materials and on the basis of modus operandi of the assessee unearthed during the search.
2.1 Having confirmed the addition of Rs.4,93,51,199/- made on the basis of same set of seized materials and evidences gathered during the search, the CIT(A) erred in deleting the addition of Rs.2,09,82,608/- for the reason that the AO had not given partywise and quantum wise break up of bogus purchases and simply categorized under the head "Others".
2.2 The Ld.CIT(A) failed to appreciate that the details of suppliers from whom the cash was received back is maintained in excel sheet and as per the excel sheet, an amount of Rs.2,09,86,608/- is mentioned as "Others", hence it is part of the excel sheet containing bogus purchases.
2.3 The Ld.CIT(A) failed to appreciate that the assessee did not provide break up of amount of Rs.2,09,86,608/- mentioned as "Others" and the assessee failed to prove that the said purchases are genuine by providing name and address of supplier and corresponding Invoices with supporting documents.

As is evident, the issues that fall for our consideration in assessee's appeal are – (i) Addition of Bogus Purchases for Rs.493.51 Lacs; (ii) Disallowance of sub-contractor's expenses for Rs.16.82 Lacs; (iii) Addition of unexplained investment u/s 69 for Rs.9190 Lacs. The subject matter of revenue's appeal is relief granted by Ld. CIT(A) on account of bogus purchases for Rs.209.82 Lacs.

1.4 The Ld. AR advanced arguments and referred to various documents as placed on record. The Ld. CIT-DR also advanced arguments and supported the orders of lower authorities. This appeal was heard along with other appeals of the assessee for several assessment years. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

1.5 The assessee being resident firm filed return of income for this year u/s 139(1). The assessee was subjected to search action u/s 132 on 28-10-2020. Accordingly, an assessment was framed u/s 143(3) r.w.s. 153A on 04-05-2022 making certain additions in the hands of the assessee. Post search-proceedings, notice u/s 153A was issued to the assessee on 30-04-2021. The assessee filed return of income and disclosed

certain additional income. The details of the same could be tabulated as under: -

No.	A.Y.	Date of filing of return u/s 139(1)	Income returned u/s 139(1)	Income assessed u/s.143(3)	Returned Income u/s.153A Rs.	Additional Income disclosed Rs.
A	B	C	D	E	F	(F-D)
1	2015-16	08.09.2015	10,89,38,240		11,02,35,450	12,97,210
2	2016-17	10.02.2017	5,52,28,000	NA	5,72,95,360	20,67,360
3	2017-18	23.01.2018	15,78,68,530	NA	19,07,00,920	3,28,32,390
4	2018-19	15.12.2018	11,39,91,610	NA	11,58,49,610	18,58,000
5	2019-20	30.01.2020	14,40,23,110	NA	30,74,07,590	16,33,84,480
6	2020-21	31.03.2021	20,40,75,060	NA	36,16,07,280	15,75,32,220
7	2021-22	31.03.2022	67,59,66,220	NA	NA	NA

It is evident that the assessee offered additional income for various years starting from AY 2015-16 to 2020-21.

2. Addition of Bogus Purchases

2.1 This addition is based on certain excel sheets as found from personal computer used by Shri Vinoth, GM. The same was seized vide Annexure ANN/KKM/VSCO/LS/S-2. Shri Vinoth admitted that one of the excel sheets titled SUPER contain cash received from various parties against whom bogus purchases were entered in regular books of accounts. Though the payments were made through banking channels but subsequently cash was received back from them. Few of the parties were admitted by Shri Vinoth to be 100% bogus parties i.e., no material was received from these parties and only purchase invoices were received without delivery of any material. In few cases, part of the purchases was found to be genuine whereas part of the purchases was found to be without any supporting documents. All such alleged bogus purchases for this year were quantified at Rs.1256.59 Lacs as tabulated in para 3.4 of the assessment order. The assessee submitted that it

computed bogus purchases of Rs.553.25 Lacs and disallowed the same in the computation of income. The Ld. AO added back the remaining purchases of Rs.703.33 Lacs to the income of the assessee.

2.2 The Ld. CIT(A) noted that Ld. AO could make one-to-one link in one or two cases between bogus purchases recorded in seized loose sheets in names of few parties and purchase bills raised in their names without supporting documents. Shri Vinoth identified 100% bogus purchases only from four parties viz. M/s Sivasakthi Steels, M/s Vinayaga Iron & Steel Corp., Sri Laxmi Traders and Sri Velmurgan Steels to the extent of Rs.522.52 Lacs. Shri Anandavadivel, in sworn statement, accepted that those bills with either signature of respective site-in-charge or seal of respective sites were genuine invoices and the remaining invoices having no supporting documents were bogus purchases. After examining the factual position vis-à-vis seized material and explanation furnished by the assessee, Ld. CIT(A) reached a conclusion that out of impugned addition, the party-wise break up with respect to purchases for Rs.209.82 Lacs was not provided by Ld. AO to the assessee. The same was simply categorized as 'others'. No reasons have been given by Ld. AO for not disclosing party-wise details of such purchases. Therefore, the addition, to that extent, could not be sustained. With respect to remaining purchases of Rs.493.51 Lacs, the assessee did not furnish evidences to prove the genuineness of the purchases and therefore, the addition to that extent was sustained. The same has led to cross-appeals before us.

2.3 We find that during the course of search proceedings, adequate evidences were found that the assessee booked bogus purchases from certain parties. The purchases so made lacked supporting documents

and the money as paid through banking channels were received back by the assessee. The list of such parties totalling 20 in number has been extracted on para 3.4 of the assessment order. The Ld. AR has placed on record the complete details of alleged bogus purchases as identified by Ld. AO. Upon perusal of the data as furnished by the assessee, we find only 4 parties have been identified by Ld. AO to be entirely bogus suppliers. These are M/s Sivasakthi Steels, M/s Vinayaga Iron & Steel Corp., Sri Laxmi Traders and Sri Velmurgan Steels. There is no finding that the other purchases are completely bogus. The party listed as serial no. 20 by Ld. AO is 'others' for Rs.209.82 Lacs for which even the names of the suppliers have not been identified by Ld. AO. The party-wise list of 'others' have nowhere been provided to the assessee and there is no finding with respect to these parties. Therefore, the addition, to that extent, has rightly been deleted by Ld. CIT(A). The purchases made from 4 entirely bogus parties aggregate to Rs.5,11,56,526/-. The purchases from remaining 15 parties are Rs.5,35,20.325/- which are partially bogus only. The assessee has already offered additional income of Rs.5,53,25,652/- in its return of income. Since the remaining purchases of Rs.5,35,20,325/- as made from 15 parties are partially bogus, to plug the leakage of revenue, we estimate addition against the same @10% which comes to Rs.53,52,032/-. The complete bogus purchase from 4 parties aggregate to Rs.5,11,56,526/- which stand sustained by us. Thus, the total addition as estimated by us would be Rs.5,65,08,558/-. The assessee has already offered additional income of Rs.5,53,25,652/-. Therefore, the balance addition as sustained by us would be Rs.11,82,906/-. No relief could be granted against GST component. The Ld. AO is directed to restrict the impugned additions to

the extent of Rs.11,82,906/-. The assessee's ground stand partly allowed. The revenue's grounds stand dismissed.

3. Disallowance of sub-contractor's expenses for Rs.16.82 Lacs

3.1 The assessee was found booking bogus sub-contractors' expenses also. Though the payment was made through banking channels, cash was received subsequently. The quantum of expenditure for this year was quantified at Rs.157 Lacs. The assessee already admitted additional income of Rs.140.18 Lacs in the return of income and still there was balance of Rs.16.82 Lacs which was not offered to tax which represent GST component on these payments. The Ld. AO added the differential of Rs.16.82 Lacs for want for sufficient details as forthcoming from the assessee. Upon further appeal, Ld. CIT(A) confirmed the same. Aggrieved, the assessee is in further appeal before us.

3.2 We find that such expenses have been quantified at Rs.157 Lacs whereas the assessee has admitted partial income to the extent of Rs.140.18 Lacs only. The remaining component is GST component which also could not be allowed to the assessee on the ground that expense itself is bogus. The bogus GST component so paid has been adjusted from output GST liability. In other words, the assessee has avoided GST payment to that extent. Therefore, no interference is required in the orders of lower authorities, on this issue. The grounds raised by the assessee stand dismissed.

4. Addition of unexplained investment u/s 69 for Rs.9190 Lacs.

4.1 This addition is based on excel sheet titled '15.04.2019' and 'sheet1' as found during search and the same was seized vide Annexure ANN/KKM/VSCO/LS/S-2 (page nos. 39 to 43). The same contained details of accounted and unaccounted loan transactions. Shri Vinoth

stated that the entries made as ‘Ac’ were accounted loans advances by the assessee and its related concerns.

4.2 The Ld. AO noted that loans were advanced to various parties and interest was charged at the rate of 1% to 1.7% depending upon the parties. Shri Vinoth, GM stated that entries with the description ‘U.Ac’ were cash loans advanced by the Managing Partners of the assessee firm. Similarly, the entries with the description ‘others’ were cash loans received from various parties and advanced to other parties by the managing partner. The entries with description ‘U.Ac’ aggregated to Rs.63.75 Crores whereas entries with description ‘Others’ aggregated to Rs.28.15 Crores. Considering the contents of excel sheets, Ld. AO show-caused the assessee as to why the loans outstanding for this year was not to be treated as unexplained investment.

4.3 The assessee explained that the aforesaid excel sheets had three parts. The first part was accounted loans given to the extent of Rs.32.90 Crores to various parties as per the list attached. The Second part represents unaccounted loans given to the extent of Rs.63.75 Crores and the third part represents unaccounted loans taken to the extent of Rs.28.15 Crores. Shri Vinoth in sworn statement dated 30-10-2020 (Q. No.14-XII) stated that the sum of Rs.63.75 crores represents unaccounted loans given and Rs.28.15 Crores represent unaccounted loans obtained to advance unaccounted loans given. It was explained that all these notings were with reference to various parties who required loans and the parties who were possessing the funds and ready to give the same on interest. The assessee used to refer the parties who were in possession of funds to the funds-required parties. Only for the sake of reference, these noting were made in excel sheets for the purpose of

management information and which has been correctly stated by Shri Vinoth in his sworn statement. The updation was not properly done since the assessee had not done any financial transaction but noted the transactions for the limited purpose of management information regarding references made towards loans referred to friends on both sides. The same was clarified by Shri Anandavadivel in his statement dated 30-04-2021 wherein he deposed that the seized excel sheet had entries with respect to loans advanced and the parties under whose reference the loans are advanced. He confirmed that these loans were referred advances and not the real advances of the firm. It was also stated that the assessee did not earn any interest income out of these transactions. However, rejecting assessee' submissions, Ld. AO added the sum of Rs.91.90 Crores as unexplained investment u/s 69. Aggrieved, the assessee assailed the same before first appellate authority.

4.4 The Ld. CIT(A) noted that with respect of seized excel sheets, sworn statements were recorded from Sri Vinoth, GM and Shri Anandavadivel, on 30-10-2020 and 30-04-2021 respectively. They explained the nature of transactions as well as meaning of certain letters as mentioned against such transactions in seized material. Shri Vinoth identified the accounted as well as unaccounted loan transactions. The unaccounted loans were for Rs.63.75 Crores whereas Rs.28.15 Crores was unaccounted loans received from others and advanced to various related parties. Shri Anandavadivel agreed the aforesaid loans were outstanding for this year and the same was sourced out of inflation of expenses, unaccounted interest earned on unaccounted loans, amounts received back. The AO verified and found that the transactions bearing

abbreviation 'Ac' was appearing in regular books. The assessee contended that these were nothing but referred loans only. Another contention was that seized sheets had no evidentiary value. Further. Ld. AO did not verify loan parties as mentioned in the seized material. The Ld. CIT(A) rejected the same on the ground that these excel sheets contained details of both accounted and unaccounted loans advanced by assessee. The same was explained by Shri Vinoth in his statement. The managing partners also agreed that loan was still outstanding for the year under consideration. Thus, the transactions were owned up. Therefore, the argument that the seized material had no evidentiary value could not be accepted. The Ld. CIT(A) also held that GM as well as Managing partner accepted that loans pertain to assessee-firm and some of the loans were unaccounted loans. The argument that these were referred loans was not evidenced. The assessee did not file any evidence to substantiate this claim. The assessee ought to have provided addresses of the parties to enable Ld. AO to conduct enquiries. The Ld. CIT(A) referred to various case laws to support the conclusion that admission by a person was a good piece of evidence though not conclusive and the same could be used against the person who makes it. The statement was not retracted. Another argument was that seized material did not contain year of loan and it could not be presumed that entire loans pertain to this year. However, Ld. CIT(A) held that the details thereof were in the personal knowledge of the assessee and it was replied that the loans were still outstanding for the year under consideration. Finally, the impugned addition was confirmed against which the assessee is in further appeal before us.

Our Adjudication on this issue

5. From the fact, it emerges that the impugned addition has been made solely on the basis of loose excel sheet found during search and statements record therein. The copy of the same as placed on Page No.265 of Paper-book Volume-II read as under: -

S.No	Particulars	Value	IOR	Per Mon	%
1	G.F	6,00,00,000.00	1.25	7,50,000.00	15
2	PC	7,00,00,000.00	1.00	7,00,000.00	12
3	PPR	10,00,00,000.00	1.00	10,00,000.00	12
4	CRU	5,00,00,000.00	1.25	6,25,000.00	15
5	Amir Tham	3,50,00,000.00	1.70	5,95,000.00	20
6	PV Inf	1,00,00,000.00	1.00	1,00,000.00	12
7	Muthu M	20,00,000.00	1.00	20,000.00	12
8	Foods	20,00,000.00	1.50	30,000.00	18
	Total	**32,90,00,000.00**		**38,20,000.00**	
1	M.Fine	25,00,00,000.00	1.50	37,50,000.00	18
2	B.Inves	6,50,00,000.00	1.50	9,75,000.00	18
3	G.F.	12,00,00,000.00	1.25	15,00,000.00	15
4	PPR	4,50,00,000.00	1.40	6,30,000.00	16
5	ALEV	3,50,00,000.00	1.404	4,90,000.00	16
6	NSS	50,00,000.00	1.25	62,500.00	15
8	FOODS	35,00,000.00	1.00	35,000.00	12
7	Venkat	10,00,00,000.00	1.00	10,00,000.00	12
9	Karthi (ED)	75,00,000.00	1.60	1,20,000.00	19
10	Mani (ED)	50,00,000.00	1.50	75,000.00	18
11	RJM	15,00,000.00	1.50	22,500.00	18
	TOTAL	**63,75,00,000.00**		**86,60,000.00**	
1	NMS	7,65,00,000.00	1.00	7,65,000.00	12
2	FOODS	1,00,00,000.00	1.00	1.00,000.00	12
3	FOODS	30,00,000.00	1.00	30,000.00	12
4	Mohan	1,00,00,000.00	1.00	1,00,000.00	12
5	Mohan	20,00,000.00	1.00	20,000.00	12
6	Rent	8,00,00,000.00	1.25	10,00,000.00	16
7	Venkat	10,00,00,000.00	1.00	10,00,000.00	12
	TOTAL	**28,15,00,000.00**		**30,15,000.00**	
1	Vanika	10,00,000.00			
2	Sathyam	1,50,00,000.00			
3	Yugan	1,50,00,000.00			
	Total	**3,10,00,000.00**			
Ac		32,90,00,000.00		38,20,000.00	
U.Ac		63,75,00,000.00		86,60,000.00	
Others		28,15,00,000.00		30,15,000.00	
Inv		3,10,00,000.00			
	Total	**1,27,90,00,000.00**		**1,54,95,000.00**	

Upon perusal of the same, it could be seen that the sheet has incomplete details and no date has been mentioned therein against alleged loans given by the assessee. It is also not mentioned who has given the loans and when the loans were given. Nothing could be deciphered on the basis of the same to substantiate the allegation that these are unaccounted loans given by the assessee during this year. None of the parties to whom alleged loans have been given, have not even been identified and no enquiries have been made from them to support the allegations. Merely on the basis of this sheet, Ld. AO has concluded that the assessee had lent unaccounted loans to various parties. However, the allegations are bereft of any corroborative evidences on record. In our opinion, these sheets were merely dumb document having not much evidentiary value unless the same was supported by corroborative evidences to support the fact that the assessee, in fact, advanced such undisclosed loans during this year. We find that there is no such corroboration on record.

6. So far as the statement of Shri Vinoth (GM) is concerned, it was stated by him that the unaccounted loans were advanced by the Managing Partners (Individuals) to various concerns. Going by this statement alone, the impugned alleged loans could not be added into the hands of the assessee at all since it was stated by him that the loans were advanced by individual partners and not by the assessee-firm. Therefore, this statement, if considered on standalone basis, could not be used to make the impugned addition in the hands of the assessee.

7. So far as the statement of Managing Partner is concerned, the same has been recorded during assessment proceedings on 30-04-2021 wherein he stated that the loans were lent out of unaccounted business

income by virtue of inflation of expenses. Both the statements of Shri Vinoth and Managing Partner run contrary to each other. It could also be noted that the assessee was subjected to search proceedings and after considering each and every incriminating material as found therein, the assessee already admitted additional income and Ld. AO made further additions in earlier years. Therefore, even otherwise, each and every unaccounted income whatever has been earned by the assessee-firm in earlier years, the same has already been brought to tax and therefore, no further addition could be made in the hands of the assessee at the time of expansion thereof. The same lead to double taxation which is impermissible. All these factors lend credence to the arguments of Ld. AR.

8. During proceedings before lower authorities, the assessee has challenged the evidentiary value of the disputed loose sheet / excel sheet especially in the absence of any direct corroborative evidence for movement of funds. It was stated that there was no reference to any date in the disputed single page excel sheet and hence the assessment of the disputed sums was without any basis. On the closer scrutiny of the disputed sheet, it could be seen that there are different disputed segments including "Ac", "U.Ac" and "Others". Insofar as the segment relating to "Others" aggregating to Rs.28.15 Crores is concerned, it has clearly been brought out that these amounts were not transacted by the assessee but the same represent amounts lent by various parties to various persons having no tax implication in the hands of the assessee. There are no primary records in the form of pro-note / security documents / other collaterals forming part of the search records in corroboration of suspicion of the revenue. Similar is the situation with

"U.Ac" segment which is also not supported by any primary record in the form of pro-note / security documents/ other collaterals forming part of the search records. The parties as mentioned in the sheet have nowhere been identified even and there is no independent investigation by Ld. AO to support its conclusion. The impugned addition, in our considered opinion, is based more on suspicion and surmises. Having searched the entire premises of the assessee, the search team could not bring on record any corroborative evidence establishing the creation of unaccounted money and movement of cash towards unaccounted loans alleged to be lent except the sole reliance made on the statements recorded at the time of search. As already noted, whatever incriminating material was found for earlier years, the income with respect to that material was already offered to tax by the assessee as additional income which is evident from our income tabulation in preceding para 1.5 and Ld. AO had made further additions considering the material unearthed during search proceedings. In such a case, no further addition could be made in the hands of the assessee at the time of alleged expansion thereof.

9. The Hon'ble Karnataka High Court in its recent decision titled as **CIT vs. Sunil Kumar Sharma (159 Taxmann.com 179; 22.01.2024),** rendered in the context of Sec.153C, held that a sheet of paper containing typed entries and in loose form, not shown to form part of the books of accounts regularly maintained by the assessee or his business entities, do not constitute material evidence. The Hon'ble Court referred to the decision of Hon'ble Supreme Court in the case of **CBI vs. V.C. Shukla (3 SCC 410)** as well as another decision in **Common Cause vs. UOI (supra)** while arriving at such a conclusion. The Hon'ble Supreme

Court in the case of **CBI vs. V.C. Shukla (3 SCC 410)** held that every transaction as recorded in the regular books needs to be independently corroborated and proved when some liability is to be fastened in respect of such transactions. The legal principle as laid down by Hon'ble Supreme Court is that independent corroborative evidence is required in respect of entries in regular books of accounts and the same would apply in the present case. Pertinently, Special Leave Petition (SLP) of revenue against this decision has been dismissed by Hon'ble Supreme Court on 20-08-2024 which is reported as 165 Taxmann.com 846. We are of the opinion that aforesaid principle as laid down by Hon'ble Court would apply to the facts of the present case before us and the same strengthens the arguments of Ld. AR. Similarly, Mumbai Tribunal, in the case of **ITO vs. Kranti Impex Pvt. Ltd. (ITA No.1229/Mum/2013)** held that when the seized papers were undated having no acceptable narration and did not bear the signature of any party, they are in the nature of dumb documents having no evidentiary value and could not be taken to be the sole basis for determination of undisclosed income of the assessee. The onus would be on revenue to collect cogent evidences to corroborate the nothings therein. The ratio of other decisions as cited by the assessee during first appeal also supports the case of the assessee.

10. Upon cumulative consideration of aforesaid facts and reasoning, we would hold that impugned additions as made by Ld. AO merely on the basis of loose sheets without any corroboration thereof, was not adequate enough to draw adverse inference of unaccounted loans by the assessee-firm. Therefore, we delete the same and allow the corresponding grounds as raised by the assessee. The Ld. AO is

directed to recompute the income of the assessee in terms of our adjudication.

11. No arguments have been advanced on legal grounds. Further, no defect has been shown in the jurisdiction of Ld. AO. The corresponding grounds raised by the assessee stand dismissed.

Conclusion

12. The revenue's appeal ITA No.1547/Chny/2024 stand dismissed. The assessee's appeal ITA No.1024/Chny/2024 stands partly allowed in terms of our above order.

Order pronounced on 17th October, 2024

Sd/-	Sd/-
(ABY T. VARKEY)	**(MANOJ KUMAR AGGARWAL)**
न्यायिक सदस्य /JUDICIAL MEMBER	**लेखा सदस्य / ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated :17-10-2024
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

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