

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

**मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं**  
**मजनीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
**AND HON'BLE SHRI MANU KUMAR GIRI, JM**

1. आयकरअपील सं./ ITA No.992/Chny/2024  
(निर्धारणवर्ष / Assessment Year: 2008-09)  
&
2. आयकरअपील सं./ ITA No.993/Chny/2024  
(निर्धारणवर्ष / Assessment Year: 2009-10)  
&
3. आयकरअपील सं./ ITA No.994/Chny/2024  
(निर्धारणवर्ष / Assessment Year: 2010-11)  
&
4. आयकरअपील सं./ ITA No.995/Chny/2024  
(निर्धारणवर्ष / Assessment Year: 2013-14)  
&
5. आयकरअपील सं./ ITA No.996/Chny/2024  
(निर्धारणवर्ष / Assessment Year: 2014-15)

<b>Shri Marimuthu Saravana</b> 269, Navakadu, Mampalayam Road, Agraharam Post, Pallipalayam, Namakkal-638 008.	<b>बनाम/ Vs.</b>	<b>DCIT</b> Central Circle-1 Coimbatore.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>AUMPS-8546-B</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओरसे/ <b>Appellant by</b>	:	Shri S. Sridhar (Advocate)-Ld.AR
प्रत्यर्थी की ओरसे/ <b>Respondent by</b>	:	Shri R. Clement Ramesh Kumar (CIT)-Ld. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	10-09-2024
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	14-11-2024

## आदेश / ORDER

### Per BENCH:

1.1 Aforesaid appeals by assessee for Assessment Years (AY) 2008-09, 2009-10, 2010-11, 2013-14 & 2014-15 arises out of separate orders of learned first appellate authority. However, facts as well as issues, in all the years, are substantially the same. First, we take up appeal for AY 2008-09 which arises out of the order of Learned Commissioner of Income Tax (Appeals), Chennai-20, [CIT(A)] dated 15-03-2024 in the matter of an assessment framed by Ld. AO u/s. 153A r.w.s 143(3) of the Act on 30-03-2016.

### 1.2 The grounds taken by the assessee read as under: -

1. The order of the CIT (Appeals) - 20, Chennai dated 15.03.2024 vide DIN & Order No. ITBA/APL/S/250/2023-24/1062670671(1) for the above-mentioned Assessment Year is contrary to law, fact and in circumstances of the case.
2. The CIT (Appeals) - 20, Chennai erred in sustaining the search assessment in validating the additions forming part of the computation of taxable total income without assigning proper reasons and justification.
3. The CIT (Appeals) - 20, Chennai failed to appreciate that the order of search assessment. was passed out of time, invalid, passed without jurisdiction and not sustainable both on facts and in law.
4. The CIT (Appeals) - 20, Chennai erred in sustaining the addition of Rs.3,74,68,278/- as undisclosed income from the business of money lending based on the disputed seized materials / lack of seized materials in the computation of taxable total income without assigning proper reasons and justification.
5. The CIT (Appeals) - 20, Chennai erred in sustaining the addition of Rs.2,75,000/- being the gift received in cash as income of the appellant in the computation of taxable total income without assigning proper reasons and justification.
6. The CIT (Appeals) - 20, Chennai erred in sustaining the addition of presumed unaccounted interest for assessment based on the faulty quantification of the advances in the finance business without assigning proper reasons and justification.
7. The CIT (Appeals) - 20, Chennai failed to appreciate that the quantification of the advances on various facets was wrong, erroneous, incorrect, invalid, unjustified and not sustainable both on facts and in law.
8. The CIT (Appeals) - 20, Chennai failed to appreciate that the said quantification of advances for the purpose of arriving at the interest income for assessment was not backed up either direct or indirect evidences forming part of the search records, there by vitiating the related findings.
9. The CIT (Appeals) - 20, Chennai failed to appreciate that the assessment of interest income at 15% out of the peak balance with a view to end protracted litigation which was

the first alternate plea, was completely over looked and brushed aside, there by vitiating the related findings pertaining to the sustenance of the said addition.

10. The CIT (Appeals) - 20, Chennai failed to appreciate that the assessment of interest income at 2.5% being another alternate plea for ending the Lis with the revenue was also over looked and brushed aside in estimating the interest income for assessment without the backing of the materials in the search records and hence ought to have appreciated that the estimation of the interest income on the facts of the present case was completely erroneous and incorrect.

11. The CIT (Appeals) - 20, Chennai failed to appreciate that the quantification of the advances without reckoning the returned cheques / dishonored cheques, claimed as bad debts in the business of finance should be considered as income and erroneous, there by vitiating the related findings.

12. The CIT (Appeals) - 20, Chennai failed to appreciate that the expenses for earning the additional income, even though disputed by the appellant was wrongly rejected and ought to have appreciated that the rejection of claim for expenses on various facets was wrong, erroneous, incorrect, invalid, unjustified and not sustainable both on facts and in law.

13. The CIT (Appeals) - 20, Chennai failed to appreciate that the findings recorded in this regard in of the impugned order were wrong, erroneous, unjustified, incorrect, invalid and not sustainable both on facts and in law.

14. The CIT (Appeals) - 20, Chennai failed to appreciate that quantification of taxable total income and its sustenance should be considered as nullity in law and ought to have appreciated that the said re-computation on various facets was wrong, erroneous, incorrect, invalid, unjustified and not sustainable both on facts and in law.

15. The CIT (Appeals) - 20, Chennai failed to appreciate that there was no proper/reasonable opportunity given before passing of the impugned order and any order passed in violation of the principles natural justice would be nullity in law.

As is evident, the impugned addition stem from search proceedings carried out by the department on assessee.

1.3 The Ld. AR advanced arguments on estimation of income of the assessee and put forth various alternatives. In support thereof, requisite workings / computations have been placed on record. The Ld. CIT-DR also advanced arguments supporting the orders of lower authorities. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

### **Assessment Proceedings**

2.1 The assessee being resident individual was subjected to search u/s 132 on 06-03-2014 based on which impugned assessment was framed.

The search action threw up evidences of large-scale unaccounted money lending business of the assessee and also unaccounted investments made by him. During the course of assessment proceedings, notices u/s 153A was issued on 29-04-2015 and the assessee admitted income for various years as under: -

A.Y.	Date of filing of original return of income	Income Originally returned Rs.	Date of filing return of income u/s 153A	Income returned u/s.153A Rs.
2008-09	26.11.2008	2,56,000	21.08.2015	23,54,990
2009-10	23.03.2010	2,97,270	21.08.2015	27,11,100
2010-11	16.09.2010	2,39,16,700	21.08.2015	2,39,16,700
2011-12	29.02.2012	9,90,700	21.08.2015	37,66,610
2012-13	02.03.2013	14,66,770	21.08.2015	46,59,070
2013-14	29.09.2013	13,61,420	21.08.2015	50,39,340
2014-15	21.08.2015	83,14,780		

It is evident that the assessee offered certain additional income in the returns of income filed in response to notice issued u/s 153A. For this year, the income was admitted for Rs.23.54 Lacs as against income of Rs.2.56 Lacs as originally returned. During assessment proceedings, statements u/s 131 was recorded from the assessee on various dates.

2.2 It transpired that the assessee was engaged in usury finance in the name and style of M/s Bannari Amman Finance, M. Saravana and M/s Bannari Amman Textiles. The assessee would lend money for pre-determined fixed period and would charge interest at varied rates depending upon the period of loan, risk involved, amount of loan and urgency of debtor. The rates charged in same cases could touch up-to 20 to 30% for period of 10 weeks.

2.3 The *modus-operandi* was that the assessee opened up several bank account in his own name as well as in the name of his family members and close associates in several banks which have been

tabulated in Para 3.2 of the assessment order. Total of 18 such bank accounts held in various names were identified. It was admitted by the assessee that all banks relate to money lending business. Only two bank accounts were reflected in the regular books of accounts. All the accounts were operated by respective account holders on the directions of the assessee. It was also stated that transactions of these accounts were taken into account while filing return of income u/s 153A.

2.4 The assessee admitted that certain credits were by cheques and certain credits were by way of cash. The assessee was unable to identify the parties from whom the cheques were received. The debits were in the form of cash withdrawals or transfer to some other account or cheques issued to various parties. The assessee was unable to identify individual transactions. The modus operandi as explained by the assessee was that he would draw cash from these accounts and advance the same in cash to various parties after obtaining post-dated cheques.

2.5 To work out interest income starting from AY 2008-09, the assessee worked out opening capital which was employed in money lending business as on 01-04-2007. He took peak credit of each bank account which was operational during FY 2006-07 which came to Rs.139.93 Lacs. On the opening balance, the assessee worked out interest of 15% and estimated the interest income. However, the said working was held to be flawed and not acceptable.

2.6 The Ld. AO noted that during search, Varavu Selavu Books relating to money lending business were seized / impounded and the same contained details of money lending business. Upon analysis of data for the period 01-02-2008 to 31-03-2008 as available, it was found that

period of credit ranged from 8 days to 67 days and the interest rate varied from 22% to 365% per annum. The total interest collected for the two-month period from 01-02-2008 to 31-03-2008 was Rs.44.62 Lacs against loans advanced for Rs.811.88 Lacs. The same would translate into interest rate of 5.5% approximately.

2.7 The Ld. AO further noted the submissions of the assessee that most of the loans realized by him were through deposit of post-dated cheques in his unaccounted bank accounts which were operational during the year. The cheque deposits from various parties in the unaccounted bank account for the period from 01-04-2007 to 31-03-2008 aggregated to Rs.61.17 Crores. After deducting loan of Rs.8.11 Crores as per notebooks, the remaining loans would be Rs.53.05 Crores. In the absence of Varavu Selavu books for all but two months of the year, it would be fair to estimate that the assessee had advanced loans to the extent of Rs.53.05 Crores during the period from 01-04-2007 to 31-01-2008 for which no such notebooks were available during the year. Applying the rate of 5.5% on Rs.53.05 Crores, the unaccounted interest for 01-04-2007 to 31-01-2008 would work out to be Rs.265.27 Lacs. The total interest was thus estimated at Rs.309.90 Lacs (Rs.265.27 Lacs + Rs.44.62 Lacs). Accordingly, Ld. AO proceeded to add additional income of Rs.288.91 Lacs to the income of the assessee, The assessee also collected other charges of Rs.1.83 Lacs in two months which were proposed to be separately added.

2.8 The Ld. AO noted that cash balance as per Varavu Selavu notebooks as on 31-03-2008 was Rs.66.93 Lacs. The debtors balance as on 31-03-2008 was worked out from Varavu Selavu Notebooks based on debtors realized after 31-03-2008 and the same was computed at

Rs.415.21 Lacs. The total assets of money lending business as on 31-03-2008 were at Rs.535.60 Lacs as against Rs.160.92 Lacs shown by the assessee under the head 'cash balance (search)' in the Balance Sheet as on 31-03-2008. The differential of the two i.e., Rs.374.68 Lacs do not figure in the Balance Sheet. Out of total money lending assets of Rs.535.60 Lacs, the amount of Rs.139.93 Lacs was covered by opening balance as on 01-04-2007. The difference of Rs.395.67 Lacs was to be explained by the assessee. The assessee admitted income of Rs.20.98 Lacs and therefore, the remaining unexplained investment in business would be Rs.374.68 Lacs.

2.9 The assessee assailed the proposed computations, inter-alia, on the ground that notebooks were available only for two months whereas for remaining months, there was no seized material. The application of average rate of interest was arbitrary. The expenditure incurred in money-lending business was not considered at all. The assessee also submitted that it was carrying out money lending business since FY 2004-05 and he was having circulating capital. The debtors balance as on 31-03-2008 may not be considered as debtors that has arisen only during the period from 01-04-2007 to 31-03-2008 since the same arose in earlier years. The assessee, in statement u/s 131 as recorded on 22-03-2016, also submitted that expenditure on brokerage would be 25% of interest earned. The bad debts would constitute about 30% of expenses. The expenses towards fuel, transportation, salary, telephone, printing and stationery etc. was stated to be in the range of Rs.1 Lacs per month.

2.10 The Ld. AO held that interest rate of 5.5% was arrived at based on data available for two months. There was no sound basis for assessee's claim of expenditure. However, the amount of Rs.1.83 Lacs as collected

as other charges could be treated to be spent towards administrative expenditure of the assessee. The argument on computation of sundry debtors were rejected. The amount of Rs.374.68 Lacs was thus brought to tax in the hands of the assessee as unexplained investment in money lending business.

2.11 The interest income for 10 months was estimated at Rs.265.27 Lacs applying rate of 5.5%. The total interest thus worked out to be Rs.309.90 Lacs out of which the assessee admitted interest income of Rs.20.98 Lacs. The remaining interest was Rs.288.91 Lacs. Since this unaccounted interest was the source of unexplained investment in money lending business, the addition on account of unaccounted interest was telescoped to the addition made on account of unexplained investment and accordingly, no separate addition was made thereof. The Ld. AO made another addition of Rs.2.75 Lacs which represent gifts received by the assessee from his parents. Finally, the income of the assessee was computed at Rs.400.98 Lacs. The addition of Rs.2.75 Lacs was not contested by the assessee any further.

### **Appellate Proceedings**

3.1 The Ld. CIT(A) noted the details as contained in the Varavu Selavu notebooks were as under: -

Period to which Varavu Selavu Note relates	AY	Total interest collected Rs.	Total advanced Rs.	% of interest earned on total loans advanced
01.02.2008 to 31.03.2008	2008-09	44,62,904	8,11,88,705	5.5%
01.04.2008 to 31.05.2008	2009-10	59,07,070	11,28,96,435	5.23%
01.01.2013 to 31.03.2013	2013-14	29,99,900	6,64,49,977	
01.04.2013 to 30.09.2013 10.01.2014 to 03.03.2014	2014-15	96,75,655	14,59,89,779	6.63%
		2,30,45,529	40,65,24,896	5.66%

3.2 The assessee, in its written submissions, assailed the working of Ld. AO. It was submitted that figure of cheque deposit of Rs.61.17 Crores as taken by Ld. AO include cheques return for Rs.9.42 Crores which would translate in to Cheque return to Cheque deposit ratio of 15.39%. While making computations, this aspect was not considered at all and the estimate of Ld. AO was a faulty estimate and bad in law.

3.3 It was reiterated by the assessee that he was engaged in money lending business since financial year 2004-05 and it would be prudent to assume that any such business would have receivables and as such the assessee had debtors prior to assessment year in consideration in the form of circulating capital. The Ld. AO erred in not considering the fact that the debtors would have been in existence in the course of business for the prior years also. Therefore, Ld. AO erred in considering debtors as on 31-03-2008 while making the computations. The assessee supported its own working which was based on peak credit. The peak credit for this year was worked out to be Rs.139.93 Lacs which would be a fairer estimate since the whole case of Ld. AO was based on the bank statements considering the bank statements to be the books of accounts. Therefore, the estimate of opening capital employed based on peak balance of the previous year's bank statements must have been given due importance and consideration since it represents the figures as per the bank statements which the AO has relied upon to estimate the income and adopted the base of framing the assessment for block period. Therefore, adoption of Rs.415.21 Lacs as closing debtors as on 31-03-2008 was arbitrary one since the same was already available even during the period ended 31-03-2007 in the form of circulating capital. The peak balance of Rs.139.93 Lacs of bank accounts as on 31-

03-2007 may be treated as opening capital employed for this year since the bank statements were primary proof for framing the entire assessment and Varavu Selavu Notebooks were not available for the period from 01-04-2007 to 31-01-2008.

3.4 The assessee also assailed adoption of interest rate of 5.5% on the ground that the same was based on available data for two months whereas for remaining months no incriminating material was found. Further, the notebooks did not indicate any expenditure incurred in relation to brokerage paid on referrals, expenditure incurred in operating of business, day-to-day expenses, bad debts etc. The notebooks comprise-off only the data in respect of loans advanced, cash withdrawn from bank for advancement of loan and receipt of repayment of loan only. Reliance was placed on various judicial decisions to assail the working of Ld. AO based on extrapolation of data of two months.

3.5 In the alternative, the assessee pleaded for adoption of interest rate of 2.5% of total loans credits and while computing the interest, the cheques returned / dishonored was to be excluded. The capital employed of Rs.139.93 Lacs was to be adopted and the debtors balance as computed by Ld. AO was to be rejected. The cheque dishonored for Rs.942.01 Lacs was to be considered as bad-debts which was to be allowed against estimated interest income. The assessee also pleaded for allowance of brokerage / commission and administrative expenses.

3.6 The adjudication of Ld. CIT(A) is contained in para-7 onwards. The Ld. CIT(A) observed that average interest rate as per Varavu Selavu notebooks was 5.66% computed as under: -

A.Y.	Period for which Varavu Selavu books found	Average rate of interest as per seized books
2008-09	2 Months	5.50%
2009-10	2 Months	5.23%
2013-14	3 Months	4.51%
2014-15	9 Months	6.63%
Average interest rate		5.66%

Considering the same, Ld. AO rightly applied interest rate of 5.5% and the same was based on seized material. The argument on cheques dishonored was to be rejected since the assessee was collecting interest at the time of disbursement of loan amount only. Even in case of dishonored cheques, the interest would have been fully collected by the assessee. The Ld. AO considered only such amount which were successfully recovered in the form of cheques. The Ld. CIT(A) also rejected reliance on various case laws and upheld the addition based on extrapolation of data. On the issue of bad-debt claim, Ld. CIT(A) held that the assessee lent money after reducing interest portion from principal amount lent. There was no loss of interest even if principal goes bad. It could not be believed that once the cheque had bounced, the assessee would not take any other measures to recover the amounts. The bounced cheque would not automatically mean a bad-debt unless there was actual evidence thereof. Even after Cheque is rejected, the amount might have been recovered subsequently by taking valid cheques. If collection is through any other valid cheque, it might have been credited to bank account which would form part of loans recorded. But if recovery was through cash, there was no chance of it appearing in bank accounts. The assessee was unable to identify such bad debts. Therefore, the corresponding arguments were rejected. The arguments

on allowance of expenditure were also rejected. Only partial relief of Rs.8.82 Lacs was granted against impugned additions for computational error and the balance addition of Rs.365.85 Lacs was sustained. Aggrieved, the assessee is in further appeal before us.

#### 4. Subsequent Assessment Years

In AY 2009-10, the assessee offered additional income by computing interest of 15% on opening balance of capital employed. The same came to Rs.24.13 Lacs. The Ld. AO rejected the same and estimated the income in similar fashion. The unaccounted interest as per data available for April and May, 2008 in the notebook was Rs.59.07 Lacs. For remaining months, Ld. AO applied interest rate of 5.23% on cheques credited in various undisclosed bank accounts. The same came to be Rs.154.11 Lacs. Total interest thus estimated was Rs.213.18 Lacs. Since the assessee already offered additional income of Rs.24.13 Lacs, the remaining income of Rs.189.05 Lacs was further added to the income of the assessee. Similar additions were made for AYs 2010-11, 2013-14 & 2014-15. The adjudication of Ld. CIT(A) was substantially on the same line which confirmed the aforesaid estimation as made by Ld. AO. Aggrieved as aforesaid, the assessee is in further appeal before us.

#### Our findings and Adjudication

5. From the fact, it emerges that the assessee is carrying out money lending business for past many years. For the said purpose, the assessee has opened 18 bank accounts in various names out of which only 2 bank accounts have been reflected in the regular return of income. It is undisputed fact that the credit in all the bank accounts relate to the money lending business of the assessee and the only issue that arises for our consideration is to estimate the probable income that has

been earned by the assessee on account of interest income. It is also clear that the assessee has not maintained any regular books of accounts and such estimation has to be based on the bank credits and partial Varavu Selavu Notebooks which are available as under: -

A.Y.	Period for which Varavu Selavu books found
2008-09	2 Months
2009-10	2 Months
2013-14	3 Months
2014-15	9 Months

It could be seen that only partial notebooks are available for AYs 2008-09, 2009-10, 2013-14 & 2014-15 and concrete conclusion cannot be drawn on the basis of the same. We also find that no notebooks have been found for AYs 2011-12 and 2012-13 and there is no incriminating material seized for these two years. Considering this fact, the impugned additions as made by Ld. AO in those two years has already been deleted by Ld. CIT(A) considering the decision of Hon'ble Supreme Court in the case of **Pr. CIT vs. Abhisar Buildwell (P.) Ltd. (149 Taxmann.com 399)** holding that no addition could be made for completed assessment in the absence of any incriminating material found during the course of search. The first appellate orders for AYs 2011-12 & 2012-13 are placed on record on Page Nos.511 to 538 Paper-book Volume-II.

6. The cash flow statement as computed by assessee for AY 2008-09 has been placed on Page No.48 of the paper-book Volume I. Upon perusal of the same, we find that the assessee has taken opening balance of Rs.139.93 Lacs and computed interest @15% on the same. The opening balance is nothing but peak credit balance of bank accounts during FY 2006-07. The interest income has been arrived at

Rs.20.98 Lacs which has been offered additionally in return of income filed u/s 153A. The said computation proceeds on the assumption that only that much was the capital employed by the assessee in its business which has been rotated during the year and fetched interest income at estimated rate of 15%. This methodology is clearly flawed since opening capital is nothing but peak credits of all the bank accounts during FY 2006-07. This working is clearly fallacious and not on a strong footing. Therefore, this working has rightly been rejected by Ld. AO.

7. At the same time, it could also be observed that even the computations made by Ld. AO are also erroneous since all the credits in the bank accounts could not be taken into account to work out the estimated income of the assessee. The assessee clearly demonstrated that there were dishonored cheques to the extent of 15.39% of total cheque deposits. Further, the credits in the bank accounts include interest component also since the assessee lent the money after deducting interest amount in advance whereas the cheque was taken for full amount including interest. The Ld. AO has also not considered the claim of expenditure, bad-debt claim, administrative expenditure and brokerage expenses as incurred by the assessee in this line of business. If the debts have turned bad then not only the interest component would be foregone but even the principal component would be allowable to the assessee as bad-debts since the assessee was engaged in money lending business. Further, the computation of debtors based on realization thereof on the basis of Varavu Selavu notebooks is also not correct approach since these books are available for merely two months and therefore, no acceptable working could be made on the basis of the same.

8. The Ld. AR, during the course of hearing, furnished extensive peak balance working for AYs 2008-09 to 2010-11, 2013-14 & 2014-15 in paper-book Volume IV. The same has been summarized on Page No.1 as under: -

No.	AY	Date of Peak Credit	Page Ref. No.	Peak Credit	Less additional income already offered u/s 153A	Less Opening credit	Closing Balance	Shortfall in income to be offered
A	B	C	D	E	F	G	H=E-F-G	I
1.	Opening Balance						-1,39,93,238	
2	2008-09	16-02-2008	57	61,79,960	20,98,986	1,39,93,238	-99,12,265	Nil
3	2009-10	20-10-2008	85	1,00,95,639	24,13,834	99,12,265	-22,30,459	Nil
4	2010-11	19-09-2009	110	1,09,56,350	-	22,30,459	87,25,891	87,25,891
5	2013-14	19-06-2012	133	1,06,74,879	36,77,917	-	69,96,962	69,96,962
6	2014-15	29-08-2013	187	80,81,896	53,08,242	-	27,73,654	27,73,654
		<b>Total</b>		<b>4,59,88,724</b>	<b>1,34,98,978</b>			<b>1,84,96,507</b>

In last column, Ld. AR has arrived at additions which could be estimated in the hands of the assessee for all these years. The complete working thereof has been placed on record. We find the above working to be more scientific and reliable one to estimate the income of the assessee on account of undisclosed investment as well as probable interest income since the bank credit include the interest component as well. So far as the allowance of expenditure is concerned, we find that in this line of business, the assessee has to bear lending risk and also required to incur certain administrative expenditure. The same include bad-debts claim, brokerage expenses and other administrative expenditure. We estimate the allowance of the expenditure @25% of additional income as computed in Column-I. Since no additional income is computed for AYs 2008-09 and 2009-10, no allowance of expenditure shall be allowed in these two years. The allowance of 25% shall be allowed for AYs 2010-

11, 2013-14 & 2014-15 to factor in probable expenditure against amounts as mentioned in Column I. Finally, accepting the above computations, we direct Ld. AO to verify the same and revise the impugned additions to that extent. The income, for all the years, shall be re-computed. Since the income has been estimated as above, consequently, the additional connected disallowance of unaccounted interest for Rs.3.84 Lacs and disallowance of interest payable in AY 2010-11 for Rs.9.91 Lacs stand deleted. Similar connected and separate disallowance for AY 2013-14 for Rs.3.84 Lacs and Rs.22.41 Lacs stand deleted. Similar connected and separate disallowance for AY 2014-15 for Rs.3.84 Lacs and Rs.1.54 Lacs stand deleted. The grounds raised by the assessee stand allowed accordingly.

#### 9. Other issues in AY 2010-11

9.1 In this year, the assessee is aggrieved by addition of alleged undisclosed investment in M/s Rajadheepam Spinning Mills Pvt. Ltd. (RSMPL) for Rs.58.22 Lacs. The same was on the allegation that investment made by six persons aggregating to Rs.58.22 Lacs was sourced by the assessee. The protective additions made in the hands of these persons was deleted by first appellate authority but confirmed in the hands of the assessee on substantive basis. During appellate proceedings, the assessee stated that the investment made in the name of family members and close associates was out of money lending business and therefore, telescoping benefit could be allowed for additional income as offered by the assessee. However, Ld. CIT(A) rejected the same against which the assessee is in further appeal before us.

9.2 In this year, another addition has been made for Rs.188.23 Lacs on the allegation that the assessee has made unaccounted cash payment to erstwhile shareholders of RSMPL. The same was on the basis of a loose sheet found during the course of search. The assessee produced shareholders who denied having received on-money by way of cash over and above cheque payments. The genuineness of the document was also questioned on the ground that Shri M. Mohan and Shri P.R.A. Muthusamy signed at multiple places on behalf of other persons and the document was not witnessed. It was also submitted that the assessee was one of the shareholder in RSMPL and as per loose sheet, he was shown to have received cash amount of Rs.5.85 Lacs as existing shareholder whereas the assessee was the one who took over the company. However, Ld. AO rejected the same on the ground that loose sheet could not be termed as dumb document. It was a document signed on behalf of existing shareholders (numbering 40) of RSMPL confirming receipt of cash on 25-06-2009 to the extent mentioned against their names. The share transfer forms were submitted to ROC on 29-09-2009 subsequent to the date of payment which would show that the payment was towards transfer of shares. In two cases, cash was deposited by the shareholders next day in their bank accounts. Shri M. Somasundaram or Shri S. Mohan could not answer properly as to why they signed acknowledgement slip in cash. The onus was on assessee to rebut the presumption of Sec.292C. Therefore, the addition was confirmed against which the assessee is in further appeal before us.

9.2 We find that aggregate of above two additions is Rs.246.45 Lacs (Rs.58.22 Lacs + Rs.188.23 Lacs). In our considered opinion, without going much deeper, benefit of telescoping could be granted to the

assessee against these two additions. Upon perusal of our tabulation in preceding para-8, it could be seen that the assessee has offered additional income of Rs.45.11 Lacs for AYs 2008-09 & 2009-10. Further, we have confirmed addition of Rs.65.44 Lacs (75% of Rs.87.25 Lacs) for this year. The aggregate of the two comes to Rs.110.55 Lacs. In our considered opinion, one-to-one correlation of investment as urged by Ld. CIT(A) is not required on the facts of the present case since the income has been estimated by us. In such a case, no correlation would be required. In fact, the assessee has not maintained complete records and therefore, he could not be put to such an obligation. The alleged investment in the shares of RSMPL has been made in the name of family members and close associates. Under such circumstances, the benefit of telescoping, in our considered opinion could be allowed to the assessee. Proceeding further, upon perusal of loose sheet as placed on Page No.38 to 42 of paper-book, Volume I, we find that assessee himself is shown to be one of the recipients of money which negate the theory of cash payment as put forward by Ld. AO. In our considered opinion, no one would make payment to himself and acknowledge receipt thereof. The assessee denied having made any cash payment and also produced shareholders who denied having received on-money by way of cash over and above cheque payments. Therefore, this addition stem from uncorroborated loose sheet which would not hold much evidentiary value to make impugned additions in the hands of the assessee. For the aforesaid reasons, both these additions stand deleted.

#### 10. Other issues in AY 2014-15

In this year, Ld. AO made addition of Rs.16 Lacs which represent loan taken by assessee from his mother and wife. The same was added as

unproved liability. The Ld. CIT(A) confirmed the same against which the assessee is in further appeal before us. This issue has remained unsubstantiated before us also. Therefore, no interference is required in the orders of lower authorities, in this regard.

### **Conclusion**

11. All the appeal stands partly allowed in terms of our above order.

*Order pronounced on 14<sup>th</sup> November, 2024*

Sd/- (MANU KUMAR GIRI) न्यायिक सदस्य / JUDICIAL MEMBER	Sd/- (MANOJ KUMAR AGGARWAL) लेखक सदस्य / ACCOUNTANT MEMBER
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चेन्नई Chennai; दिनांक Dated : 14-11-2024  
DS

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

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