

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

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**1. आयकरअपील सं./ ITA No.196/Chny/2024**  
**(निर्धारण वर्ष / Assessment Year: 2020-21)**

<b>ACIT</b> Central Circle-1 Madurai.	<b>बनाम/</b> Vs.	<b>Shri Gurusamy Dhanasekaran</b> No.6/1, Sithanathan Street, Palani, Dindigul Dist.-624 601.
स्थायीलेखासं./जी आइ आरसं./PAN/GIR No. <b>ABTPD-3576-G</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

&

**2. आयकरअपील सं./ ITA No.197/Chny/2024**  
**(निर्धारण वर्ष / Assessment Year: 2020-21)**

<b>ACIT</b> Central Circle-1 Madurai.	<b>बनाम/</b> Vs.	<b>Shri Natarajan Saravanakumar</b> No.6/1, Sithanathan Street, Palani, Dindigul Dist.-624 601.
स्थायीलेखासं./जी आइ आरसं./PAN/GIR No. <b>AZCPS-8604-B</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

&

**3. आयकरअपील सं./ ITA No.198/Chny/2024**  
**(निर्धारण वर्ष / Assessment Year: 2020-21)**

<b>ACIT</b> Central Circle-1 Madurai.	<b>बनाम/</b> Vs.	<b>Shri Natarajan Satishkumar</b> No.6/1, Sithanathan Street, Palani, Dindigul Dist.-624 601.
स्थायीलेखासं./जी आइ आरसं./PAN/GIR No. <b>AUHPS-8894-H</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकी ओरसे/ <b>Appellant by</b>	:	Ms. R. Anita (Addl.CIT)-Ld. DR
प्रत्यर्थीकी ओरसे/ <b>Respondent by</b>	:	Shri S. Sridhar (Advocate)-Ld. AR

सुनवाईकी तारीख/ <b>Date of Hearing</b>	:	29-08-2024
घोषणाकी तारीख / <b>Date of Pronouncement</b>	:	18-11-2024

## आदेश / ORDER

### Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeals by revenue for Assessment Year (AY) 2020-21 arise out of separate orders of learned first appellate authority. However, the facts as well as issues are substantially the same. First we take up ITA No.196/Chny/2024 which arises out of an order passed by learned Commissioner of Income Tax (Appeals), Chennai-19 [CIT(A)] on 30-11-2023 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 144 of the Act on 24-09-2021. The grounds of appeal 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 holding that unexplained investment in jewellery amounting to Rs.4,46,41,035/- needs to be telescoped against the additional income of Rs.16,65,98,557/-settled in the case of three firms, M/s. Sithanathan Abisheka stores, M/s. Sithanathan sons and M/s. Sithanathan grandsons for AYs 2014-15 to 2019-20 and unaccounted income of Rs.40,92,754 quantified for the AY 2020-21, without considering the shareholding of the assessee in the respective firms.

2.1 The Ld.CIT(A) failed to appreciate that the assessee is a partner in the firm M/s.Sithanathan Sons for AYs 2014-15 to 2020-21 with 20% share and partner in firm M/s.Sithanathan Abishekam Stores for AYs 2014-15 to 2017-18 with 20% share. The Ld CIT(A) ought to have appreciated that the assessee is not partner in the firm M/s. Sithanathan Grandsons.

2.2 The Ld.CIT(A) failed to appreciate that 20% of unaccounted income settled in respect of firms in which he held shares in the relevant assessment years works out to Rs.2,24,22,604/- which only would be available to the assessee for investment in jewellery. Hence, the telescoping ought to be restricted to that amount and balance amount of Rs.2,22,18,431/- needs to be treated as unexplained investment in jewellery.

2. The Ld. Sr. DR advanced arguments supporting the orders of Ld. AO and submitted that the allowance could be granted to the assessee only up-to the extent of his share in the partnership firms. The Ld. AR, on the other hand, referred to the findings of Ld. CIT(A) in the impugned order as well as outcome of Settlement Application filed by the assessee-

group. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

### **Assessment Proceedings**

3.1 The assessee is stated to be one of the partners in Sithanathan Group. Pursuant to search action on the group on 29-08-2019, the residential premises of the assessee was also searched. Notice u/s 153C was issued to the assessee on 26-02-2021. The issue in assessment pertained to alleged unaccounted investment in jewellery.

3.2 During search on assessee, gold jewellery weighing around 15372.400 grams was found. The jewellery weighing around 14374.400 grams was seized. During PO lifting on 19-09-2019, more gold jewellery weighing around 686.500 grams was found in the bank lockers held with Sakthi Financial Services Ltd. in the name of Smt. D. Thenmozhi (wife of the assessee). Out of same, jewellery weighing around 201.800 grams was seized. In other words, total jewellery found as above aggregated to 16058.90 grams. The assessee was directed to establish the source of the same.

3.3 The assessee submitted that his major source of income was from partnership firms. Since the firms preferred settlement application, the source could be explained only from additional income earned and offered in the hands of the firms. The assessee stated that it had no other sources of income except for share in income from the firms. Additionally, the family owned about 120 acres of wetland which earned agricultural income over the years. The same was omitted to be admitted in the return of income. The same would also constitute source of investment over the years in addition to additional income which is to be offered by the firm before Hon'ble Interim Board of Settlement (IBS).

3.4 However, Ld. AO rejected the explanation of the assessee and held that the assessee failed to furnish cash flows statements. The assessee also failed to furnish any bills for purchases. No evidence of land holding could be filed. The valuer estimated the valuation of the jewellery at Rs.609.61 Lacs which was added as unexplained investment u/s 69 in the hands of the assessee.

### **Appellate Proceedings**

4.1 During appellate proceedings, the assessee reiterated that it was member of Joint family of Sithanathan Group who was engaged in manufacturing of sacred ash for over 100 years. The assessee and all the family members live under one roof and the family was dependent on family business for income. The family owner certain properties also which fetched rental income for the assessee. The assessee drew attention to the fact that the three firms of the group preferred application before IBS and requested for grant of telescoping benefit of additional income offered therein against unexplained investment addition as made by Ld. AO in individual hands. The copy of order dated 12-06-2023 passed by Hon'ble IBS was also placed on record and particular reference was drawn to para 24.2 of the order wherein this benefit was extended by IBS. The assessee also tabulated that the sources available for telescoping for unexplained investment by family member would be available to the extent of Rs.17.06 Crores (Page-9 of the impugned order). The assessee also filed copies of wealth tax returns for AYs 2013-14 to 2015-16 and assessment framed therein to seek further concession. The assessee tabulated the sources available to the assessee against the settlement as under: -

<b>Particulars</b>		<b>Amount</b>
Balance Sources available after giving credit to Mr. Sivanasan		Rs.1437.34 Lacs
<u>Application of Source for the assessee</u>		
Investment in accretion of Jewellery	Rs.446.41 Lacs	
Cash Balance found with family members of the assessee	<u>Rs. 28.52 Lacs</u>	Rs.474.93 Lacs
Balance Sources Available for appropriation to other family members		Rs.962.40 Lacs

4.2 The Ld. CIT(A) perused the order of Hon'ble IBS for AYs 2014-15 to 2019-20 settling the application of assessee-group as under: -

<b>No.</b>	<b>Name of the Firm</b>	<b>Returned income</b>	<b>Total income settled u/s 245D(4)</b>	<b>Additional income</b>
1.	M/s S. Sithanathan Sons	Rs.15.23 Lacs	Rs.418.66 Lacs	Rs.403.43 Lacs
2.	M/s S. Sithanathan Grandsons	Rs.17.87 Lacs	Rs.298.94 Lacs	Rs.281.06 Lacs
3.	M/s S. Sithanathan Abisheka Stores	Rs.16.57 Lacs	Rs.998.05 Lacs	Rs.981.48 Lacs
	<b>Total</b>			<b>Rs.1665.97 Lacs</b>

It was also noted that Hon'ble IBS allowed the prayer of the assessee that income determined in the present proceedings be telescoped with the cash and Jewellery of the partners and their family members seized during the course of search in view of the fact that the partners of the firm predominantly did not have any other income for making such investment in properties or Jewellery.

4.3 On the quantum, Ld. CIT(A) noted that the assessee disclosed sum of Rs.163.20 Lacs in the wealth tax returns filed by the assessee and the same was accepted by Ld. AO in scrutiny assessment proceedings vide order dated 18-03-2022. The aforesaid tabulation as made by the assessee in support of balances available for appropriation was also accepted considering the first appellate order in the case of three firms. Accordingly, the impugned addition was deleted against which the revenue is in further appeal before us.

## **Our findings and Adjudication**

5. From the fact, it clearly emerges that the assessee group is engaged in one line of business for past more than 100 years. The family members have common business and common properties. The assessee and all the family members live under one roof and the substantial source of income for the family is family business only. It is undisputed fact that the three firms, on collective basis, preferred settlement before Hon'ble IBS and an order was passed therein on 12-06-2023 accepting the settlement application. The terms of settlement has been tabulated in preceding para 4.2. It is also seen that vide para 24.1 of IBS order, the applicants requested that income determined in the present proceedings be telescoped with cash and jewellery of partners and their family members seized during the course of search proceedings, if any, in their respective hands in view of the fact that the partners of the firms predominantly do not have any other income for making such investment in properties or jewels. In Para 24.2 of the order, Hon'ble IBS has accepted the plea that the Gross Profit on unaccounted sales as added to the undisclosed income shall be given the benefit of telescoping as prayed for by the appellants. The Ld. AO was directed to grant telescoping benefits for investments. Thus, it clearly emerges that the settlement has been made for the group as a whole and the direction of Hon'ble IBS has to be applied in letter and spirit. The fact that the assessee has certain specific share in the firms would lose any significant or relevance while granting the benefit of telescoping of additional income since the settlement has been made for the group as a whole and the benefit of telescoping would be available on collective basis without any restrictions. Considering all these aspects, the

impugned order would not warrant any interference on our part. We order so.

6. Facts in the other two appeals are *pari-materia* the same. The grievance of the revenue is similar. The Ld. CIT(A) has granted the benefit of telescoping. This being so, our adjudication as above would, *mutatis mutandis*, apply to both the appeals also.

7. All the three appeals stand dismissed.

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

Sd/-

**(MAHAVIR SINGH)**

उपाध्यक्ष / **VICE PRESIDENT**

Sd/-

**(MANOJ KUMAR AGGARWAL)**

लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated : 18-11-2024

DS

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

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