

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

आयकर अपील सं./ ITA No.1231/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2011-12)

M/s Supapriyaa Realty Palladam Pvt. Ltd. No.21, Pollachi Road, Palladam, Tirupur-641 664.	बनम / Vs.	DCIT Central Circle-3 Coimbatore.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AAUCS-3764-J		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

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

सुनवाई की तारीख/ Date of Hearing	:	10-09-2024
घोषणा की तारीख / Date of Pronouncement	:	19-11-2024

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2011-12, arises out of an order passed by learned Commissioner of Income Tax (Appeals), Chennai-20, [CIT(A)] on 04-03-2024 in the matter of an assessment framed by the Ld. AO u/s.143(3) r.w.s 153A of the Act on 18-06-2021. The only grievance of the assessee is confirmation of addition of undisclosed investment of Rs.421.80 Lacs. The addition was made consequent to search action on assessee group on 06-03-2019 on the allegation that the assessee paid cash amount for purchase of land.

2 This appeal was heard along with ITA No.1219/Chny/2024 in the case of Shri Palladum Krishnasamy Ganeshwar in whose case partial addition was confirmed. It was admitted position that facts of the impugned issue are pari-materia the same and our adjudication therein would equally apply to his appeal also. In the said background, the appeal is disposed-off as under.

3. The Ld. AO made addition of undisclosed investment based on certain loose sheets as found from the residence of Shri Sathish Kumar which were seized as per Annexure ANN/GK/SK/LS/S-1. The said sheet allegedly contained cash paid for purchase of land by the assessee. After rejecting assessee's submissions, Ld. AO made protective addition of Rs.421.80 Lacs.

4. Upon further appeal, Ld. CIT(A) confirmed substantive addition in the hands of the assessee. Aggrieved, the assessee is in further appeal before us.

5. We find that this issue has been decided by us in assessee's favor in ITA No.1219/Chny/2024 as under: -

Our findings and Adjudication

4. From the facts, it clearly emerges that the whole basis of addition of unaccounted investment as made by Ld. AO stem from the loose sheets as found from the premises of Shri Sathish Kumar who is stated to be an employee of the assessee. These loose sheets were not found from the premises of the assessee. In this regard, a statement was recorded u/s 131(IA) from Shri Sathish Kumar on 14-11-2019 which is kept on Page Nos. 6 to 11 of paper book Volume-I. In reply to Q. No.3, it was stated by him that the entries in the sheets were in his handwriting. The entries were written by him based on oral instruction given by Shri Gunasekar who was a land broker. It was confirmed that the entries correspond to the amounts to be given for the land owned by the parties mentioned in the sheet. In reply to Q. No.5, it was stated that Shri Gunasekar approached him but the assessee (Shri PK Ganeshwar) completed the transaction himself and complete details were known to him only. In reply to Q. No.7, it was stated that 'advance' as mentioned in the sheet was estimated amount to be given to the parties. In reply to Q. No.10, it was stated that Sheet No.55 was total of pay order column and cash column entered in Sheet Nos. 49-52. He had summed it up in order to present the total value of quoted value of Shri Gunasekar. Similarly, sheet Nos. 56-57, & 59-66 were stated to be proposal given by Shri Gunasekar for lands owned by the parties as mentioned in these sheets. Finally, in reply to

Q.No.14, it was stated that sheets of Annexure ANN/GK/SK/LS/S-1 were prepared by him and Shri Gunasekar but the details of payments may be enquired from the assessee (Shri PK Ganeshwar). On these facts, it could be concluded that the transactions as mentioned in the loose sheets were mere proposal and Shri Sathish Kumar had no knowledge of the actual payments made on these transactions. The entries were stated to be mere proposal and quoted values. Nowhere, it was admitted by him that actual payments were made on these transactions since the actual transactions as well as payments thereof were known to the assessee only. These sheets were more in the nature of quoted values / proposal etc. and not the actual transactions as alleged by Ld. AO.

5. Proceedings further, it could be seen that a statement was recorded from the assessee u/s 131(1A) on 30-10-2019 which is kept on Page Nos. 71 to 84 of paper book Volume-I. The seized sheets were confronted to the assessee. The assessee, in reply to Q.No.5, stated that the seized material was not in his handwriting and the same was not found from the premises of the assessee. The existence of the sheet was not known to him. The properties were purchased by him and his concerns and these investments were duly reflected in the books of accounts. It was stated by the assessee that no unaccounted investment was made in financial year 2010-11. The assessee also furnished the extent of land purchased from the parties and amount for which it was purchased. Thus, the assessee denied having made any undisclosed investment and asserted that all the investments were duly accounted for in the books of accounts.

6. We find that the contents of loose sheets which form the very basis of impugned addition in the hands of the assessee have been extracted on Page Nos. 8 to 13 of the assessment order. Upon perusal of the same, it could be seen that these documents lack sufficient details to form an opinion of actual cash payment by the assessee. The name of the assessee is nowhere mentioned therein. The document even lack the basic details i.e., date of payments etc. These are mere scribbling / bald jottings which could not lead to a conclusive conclusion of payment in cash by the assessee and his associated concerns.

7. It could be seen that the assessee has, all along, denied having made such investment to various parties. It could also be seen that no incriminating material whatsoever has been found from the possession / premises of the assessee to establish the source of alleged unaccounted investments. The loose sheets have been found from the premises of an employee of the assessee. The employee has denied having complete knowledge of the transactions. He merely stated that the losses sheets contain mere proposal for purchase of land and cash portion refer to the amount to be paid by cash. There is no admission of payment of actual cash. Pertinently, the entries are stated to be written by him based on oral instruction given by Shri Gunasekar who was a land broker. It was confirmed that the entries correspond to the amounts to be given for the land owned by the parties mentioned in the sheet. Though, Shri Gunasekar approached him but the assessee completed the transaction himself and complete details were known to him only. It was further stated that these were quoted value of Shri Gunasekar for proposal given by him. The Ld. CIT(A) has also noted that no transaction had materialized with two parties. Thus, no credence could be given to these loose sheets and these were rough jottings and in the nature of mere proposals carrying no evidentiary value to make impugned addition in the hands of the assessee unless the entries were corroborated by concrete evidence on record.

8. We further find that assessee furnished undertaking from various sellers confirming that the consideration was paid through cheques only as mentioned in the registered sale deeds and no money was paid to them over and above the registered sale consideration. One seller has expired whereas others three did not appear. However, the same could not be held against the assessee since the assessee had already furnished the undertakings

of all the sellers before Ld. AO. No adverse inference could be drawn against the assessee on this fact. Rather the assessee had duly discharged the onus as casted upon him to substantiate his claim. The onus was on Ld. AO to disprove the same. We find that there is no such material on record which would negate the documents furnished by the assessee or which would falsify these documents.

9 We also find that except for rough notings in the loose sheet, there is nothing with Ld. AO to corroborate allegation of undisclosed investment. In our considered opinion, the burden was on Ld. AO to prove that such cash flows happened between the parties as alleged. However, there is nothing on record to corroborate the allegation of Ld. AO.

10. Therefore on the given facts of the case, we would hold that the addition of undisclosed investment was made merely on the basis of dumb document which would not possess any stand-alone evidentiary value since it did not contain the complete particulars of the relevant transactions to facilitate drawing of such an inference as done by Ld. AO. An entry made in the loose sheets with scant details could not be used to fasten the tax liability on the assessee in the absence of any corroborative evidence. Such seized material is liable to be treated as dumb document which would not have any evidentiary value in respect of entries found therein in the absence of corroborative evidence which could provide necessary reliable basis for deciphering the nature and character of the said entries. The addition made on the basis of such a dumb document could not be sustained. Therefore, we delete the addition of undisclosed investment as sustained by Ld. CIT(A) In the impugned order. The corresponding grounds stand allowed.

Facts being quite identical and taking the same view, we delete the impugned addition and allow the corresponding grounds raised by the assessee.

6. The appeal stand allowed in terms of our above order.

Order pronounced on 19th November, 2024

Sd/-	Sd/-
(MANU KUMAR GIRI)	(MANOJ KUMAR AGGARWAL)
न्यायिक सदस्य / JUDICIAL MEMBER	लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai; दिनांक Dated :19-11-2024

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आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

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