

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

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

**1. आयकर अपील सं. ITA No.1161/Chny/2024
(निर्धारण वर्ष / Assessment Year: 2014-15)**

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**2. आयकर अपील सं. ITA No.1162/Chny/2024
(निर्धारण वर्ष / Assessment Year: 2015-16)**

M/s. Sakthi Realty Holdings Ltd. #62, Dr. Nanjappa Road, Coimbatore-641 018.	बनम/ Vs.	DCIT Central Circle-2, Coimbatore.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AAECA-8414-H		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

&

**3. आयकर अपील सं./ ITA No.1131/Chny/2024
(निर्धारण वर्ष / Assessment Year: 2014-15)**

M/s. Sakthi Finance Holdings Ltd. #62, Dr. Nanjappa Road, Coimbatore-641 018.	बनम/ Vs.	DCIT Central Circle-2, Coimbatore.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AAGCS-8531-H		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकी ओरसे/ Appellant by	:	Shri R. Venkata Raman (CA) - Ld.AR
प्रत्यर्थीकी ओरसे/ Respondent by	:	Shri R. Clement Ramesh Kumar (CIT) - Ld. DR

सुनवाईकी तारीख/ Date of Hearing	:	20-09-2024
घोषणाकी तारीख / Date of Pronouncement	:	10-12-2024

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeals by two separate assessee for Assessment Years (AY) 2014-15 & 2015-16 has identical facts and issues. First, we take up appeal ITA No.1161/Chny/2024 for AY 2014-15 which arises out of the order of learned Commissioner of Income Tax (Appeals), Chennai-20, [CIT(A)] dated 23-02-2024 in the matter of an assessment framed by the Ld. AO u/s 153A r.w.s 143(3) of the Act on 31-12-2018. The grounds raised by the assessee read as under:-

1. That the Learned Commissioner of Income Tax (Appeals) - 20, Chennai ["Ld. CIT(A)] failed to appreciate that the assessment order dated 31.12.2018 passed by the Deputy Commissioner of Income Tax, Central Circle - 2, Coimbatore ["Assessing Officer"] u/s.153A r.w.s 143(3) of the Income-tax Act, 1961 ["Act"] is without jurisdiction, bad in law, barred by limitation and consequently erred in upholding the assessment.
2. That the Ld. CIT(A) ought to have appreciated that the approval accorded by the Range Head u/s.153D of the Act was mechanical and consequently the impugned assessment order is invalid and void ab initio.
3. That the Ld. CIT(A) erred in confirming the action of the Assessing Officer in making an addition of Rs.66,00,000/- towards undisclosed income of the appellant.
4. That the Ld. CIT(A) failed to appreciate that there exists neither incrimination material nor corroborative evidence to establish that the sum of Rs.66,00,000/- added by the Assessing Officer represents undisclosed income of the appellant.
5. That the Ld. CIT(A) erred in concluding that the notings in the 'Classmate Note' seized from Smt. R.Geetha, General Manager, Sakthi Finance Financial Services Limited represents income though the same is an advance being liability in the nature which has been concurred by the Assessing Officer in many parts of the assessment order.

As is evident, the sole issue that falls for our consideration is addition of Rs.66 Lacs.

2. The Ld. AR advanced arguments with the help of various documents as placed on record. The Ld. CIT-DR also advanced arguments and referred to the findings of lower authorities in their respective orders. Having heard rival submissions and upon perusal of case records, the appeals are disposed-off as under.

Assessment Proceedings

3.1 The assessee being resident corporate assessee is stated to be engaged in the business of real estate and property development. The assessee-group was subjected to search action u/s 132 on 24-11-2016 and notice u/s 153A was issued to the assessee on 11-10-2017. The assessee admitted income of Rs.140.38 Lacs. The main issue arose on account of unexplained income.

3.2 On the basis of statement recorded from Smt. R. Geetha, General Manager of M/s Sakthi Finance Financial Services Ltd. (SFFSL) regarding mode of receiving funds and utilization thereof, it transpired that the assessee-group was taking huge amount of cash deposits from customers and issuing non-convertible debentures (NCD) for the deposits receipt acknowledgement slips thereof. The Ld. AO held that roughly half of the cash deposits and refunds were not recorded in the regular books. The cash deposits were received from various branches of SFFSL and NCDs would be issue by the assessee as well as another group entity. At the time of refund, NCDs are taken back and acknowledgement slips certificates would be destroyed periodically. The said conclusion was based on Classmate Notebook as seized from Smt. R. Geetha and incriminating material found from the laptop of Shri. S. Senthilkumar.

3.3 In Classmate notebook, handwritten data was found from the table of Smt. R. Geetha which was seized vide ANN/SFL/SM/B&D/S-1. The contents of the same have been extracted in the assessment order. Smt. R. Geetha confirmed that contents were written in her own hand. The figures related to cash deposits from various customers of SFFSL at various branches on the dates as mentioned against each transaction.

All the cash was stated to be mobilized on the directions of Shri Veluswamy (President-Operations). The total amount of Rs.210.10 Lacs was stated to represent unaccounted cash generated for the purpose of purchase of land.

3.4 Another statement u/s 132(4) was recorded from Shri Veluswamy who agreed with the deposition made by Smt. R. Geetha. The same was confirmed also by Shri Easwaran (Sr. Manager-Accounts) as well as by Shri S. Senthilkumar, AGM (Finance and Accounts) who stated that cash deposit of Rs.210.10 Lacs related to M/s Sakthi Finance Holdings Ltd. (SFHL) and assessee and the same was not accounted for in the books of the respective companies. Shri Rajkumar, Director also confirmed that cash deposits were received from various customers.

3.5 It was seen by Ld. AO that the unaccounted income for Rs.132 Lacs was admitted by Shri T. Rajkumar and other employees jointly in the hands of the assessee as well as in the hands of M/s SFHL for this year. Therefore, half of the same i.e., Rs.66 Lacs was added in the hands of the assessee as unaccounted income while framing the assessment. The remaining amount of Rs.78.10 Lacs pertained to AY 2015-16 and accordingly, half of the same i.e., Rs.39.05 Lacs was added to the income of the assessee for AY 2015-16. Similar additions were made for M/s Sakthi Finance Holding Ltd.

Appellate Proceedings

4. The Ld. CIT(A), in para 7.3 of the impugned order, noted that the notings were not mere scribbling. The assessee contended that the same were mere land advances but the same could not be substantiated. The various employees of the group accepted the notings in the seized books. The addition was made on account of seized

material which was supported by sworn statements. Though the assessee contended that the amount received were land advances, no efforts were made by the assessee to establish the aforesaid fact before Ld. AO. The onus as required us 68 was not discharged by the assessee. The copies of sale agreement or sale deeds could not be furnished to prove genuineness of the entries. Any of the sworn statements were not retracted till date. No evidence was filed to prove that the statements were factually incorrect. The receipt of amount was not disputed by the assessee and non-recording of such receipts in regular books was also not disputed by the assessee. When the assessee failed to prove genuineness of credits / deposits in seized material, the same is deemed to be its income. Accordingly, the addition was confirmed for both the years against which the assessee is in further appeal before us.

Our findings and Adjudication

5. Upon perusal of factual matrix, it could be seen that the impugned addition is based on notings made by Smt. R. Geetha in classmate notebook. During the course of search, her statement was recorded from her wherein her reply was as under: -

Ans. Shri S. Velusamy, Senior President (Operations) of M/s Sakthi Finance Ltd. directs me to mobilize cash for purchase of lands. In turn I direct the branch managers in Coimbatore and Pollachi to mobilize the cash from customers. The cash mobilized by all the branches are handed over to Shri S. Senthil Kumar AGM (Finance & Accounts) M/s Sakthi Finance Ltd. Only for the period from January, 2014 to May, 2014, Shri B. Easwaran, Sr. Manager (Finance & Accounts) of M/s Sakthi Finance Ltd. has collected the cash. The customers are issued acknowledgement slips for receipt of cash. The cash are taken from customers as deposits and are paid interest @11% to 12% p.a. The tenure of the deposits being for 12, 24, 26 and 60 months. The acknowledgement slips contain three copies of which one copy is given to the customers, the second copy to the accounts along with the cash and the third copy is maintained at the respective branches. The cash received from the customers are returned to them in cash with interest. All these cash received and paid are not accounted in the books of accounts of any of the group companies of Sakthi Finance group of companies. These cash deposits received from the

customers of various branches are kept at the head office with Mr. S. Senthil Kumar, AGM (Finance & Accounts) who keeps the record of cash collections. As per my knowledge these cash deposits have been utilized for paying on money for the purchase of lands at Nanjundapuram consisting of 2.5 acres, a land property at CODISSIA measuring 10 acres and land at Race Course Road, Coimbatore near Sahardaambal Temple measuring 3.5 acres (for which only advance has been paid) in the name of M/s Sakthi Realty Holdings Ltd.

Similar is the statement of Smt. N. Rajeshwari (Branch Manager) who confirmed that cash deposits were being mobilized from customers. The deposition made by Smt. R. Geetha has been confirmed by Shri Veluswamy as well as Shri Easwaran (Sr. Manager, Accounts) and Shri S. Senthil Kumar (AGM, Finance & Accounts). Finally, the director Shri T, Rajkumar also stated that the aforesaid amounts were cash deposits received from various customers. The Ld. AO also observed that roughly half of the cash deposits and refunds were not recorded in the regular books. The cash deposits were received from various branches of SFFSL and NCDs would be issued by the assessee as well as another group entity. At the time of refund, NCDs would be taken back and acknowledgement slips certificates would be destroyed periodically. The assessee as well as group entity is stated to have received aggregate deposits of Rs.210.10 Lacs during captioned AYs. In the background of seized material and depositions / admissions made by various persons, Ld. AO added the aforesaid deposits as income of the assessee. However, from the facts, it clearly emerges that these are deposits from customers which represent liability for the assessee. The assessee has mobilized deposits from customers against interest ranging from 11% to 12% p.a. and subsequently, the same are refunded back to the customers and deposit slips are destroyed periodically. Clearly, the deposits are in the nature of liabilities for the assessee and do not

represent the income of the assessee. The deposits have duly been refunded as per the tenure considering the *modus-operandi* adopted by the assessee. This being the case, these deposits would not partake the character of income for the assessee rather the same represent a liability for the assessee which could not be added as its income.

6. Another pertinent fact is that such deposits are not recorded in the regular books of accounts and therefore, the provisions of Sec.68 could also not be invoked to make impugned addition since the credit has to be in the books of accounts. Secondly, the identity of the depositors and the source of deposits is clearly established in the data maintained by Shri S. Senthil Kumar in the laptop computer. Therefore, this addition could not be made in the hands of the assessee u/s 68 also.

7. Considering the facts and circumstances of the case, the impugned addition made in all the three appeals stand deleted. No other grounds have been urged in the appeals.

8. All the three appeals stand allowed in terms of our above order.

Order pronounced on 10th December, 2024

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष / **VICE PRESIDENT**

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated :10-12-2024
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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