

**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, लेखक सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकर अपील सं. ITA No.1164/Chny/2024**  
**(निर्धारण वर्ष / Assessment Year: 2017-18)**

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. <b>AAECA-8414-H</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Shri R. Venkata Raman (CA) - Ld.AR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Shri R. Clement Ramesh Kumar (CIT) -Ld. DR

सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	20-09-2024
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	10-12-2024

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2017-18 was heard along with other appeals of the assessee having common issues. It was admitted position that the facts are *pari-materia* the same and our adjudication therein would equally apply to this appeal also. In the above background, the appeal is disposed-off as under. The grievance of the assessee is two-fold i.e., (i) Addition of undisclosed income based on loose sheets; (ii) Addition of cash seized.

2. Based on certain excel sheet as found from the laptop of Shri Senthilkumar and after perusing statements made therein, Ld. AO considered the deposits as noted in the sheet as the income of the assessee. The same was upheld by Ld. CIT(A) against which the assessee is in further appeal before us.

3. This issue has been decided by us in assessee's favor in ITA Nos.1163/Chny/2024 for AY 2016-17 as under: -

**Our findings and Adjudication**

5. From the facts, it emerges that the only primary evidence which has led to impugned addition is excel sheet titled as "Corpus" as found from the laptop of Shri Senthil Kumar. The copy of the same has been placed on record at Page Nos. 1 to 36 of the paper-book. Upon careful consideration of the same, it could be seen that there is inflow of cash from various parties and there is also outflow of cash under some abbreviations. The parties from whom deposits have been received are identified by clear names / description. The outflow of cash entries also bear incentives / interest paid by assessee to various parties. The assessee has refunded various amounts to lenders from time to time. A careful perusal of these entries would show that inflow of cash is primarily deposits / advances received from various persons by different branches of the assessee. The Ld. AO has considered these deposits as the income of the assessee and taxed the receipts considering the same to be the unaccounted income of the assessee. The same is in contrast to the fact that the seized material also contain the details of refund as well as payment of incentive / interest. It could be seen that the assessee is engaged in real estate business and it would have received land advances from prospective buyers so as to carry out its business activities. In our considered opinion, the conclusion of Ld. AO that these receipts constitute the income of the assessee is clearly opposed to nature of entries as recorded in the seized material. It is trite law that the purpose of assessment is to determine the correct income of the assessee and only real income could be taxed. No addition could be made on mere suspicion, conjectures or surmises.

6. Our aforesaid conclusion is supported by the fact that the excel sheet was found from the Asus Laptop belonging to Shri Senthilkumar. The sheet contains date-wise deposits of cash along with the names of the depositors and summary of cash deposits made with the assessee- company as well as with SFHL. The excel sheet also contains the details of application made out of the funds so received from the depositors. The outflow entries, inter-alia, include the entries of incentive / interest as well as refund made to the depositors. Shri Senthilkumar admitted that the laptop belonged to him and the excel sheet was maintained by him for storing the details of cash deposits received from customers on various dates for the purpose of reporting to Shri Veluswamy (Senior President-Operations) at regular intervals. The same was confronted to Shri Velusamy who made similar admission. Thus, both the statements are in agreement with each other and the perusal of the same would suggest that the impugned inflow of cash is nothing but deposits as received from various customers at different branches. The deposits represent liabilities which are to be repaid by the assessee. By no stretch, a conclusion could be drawn that the same would represent unaccounted income of the assessee and the assessee has written some random names to record these deposits. Unless a finding has been rendered

that such deposit represent unaccounted income of the assessee, no such addition could have been made in the hands of the assessee.

7. Proceeding further, the secondary evidence that is available with Ld. AO is the affidavit filed by Shri T. Rajkumar. However, during search, no incriminating material is found which would suggest that the assessee was in possession of any unaccounted asset which is represented by such unaccounted receipts. In fact, the assessee furnished reconciliation statements during assessment proceedings wherein it was established that the refunds were processed to the tune of Rs.36.89 Crores. As per seized sheet, the cash receipts up-to 31-05-2015 were Rs.58.43 Crores being advances received towards real estate activity of the company. Out of this, sum of Rs.20.96 Crores had already been refunded to the concerned parties. The detail of such refunds was duly furnished to Ld. AO. The confirmation of land advances with respect to remaining sum of Rs.37.47 Crores was also furnished. Having furnished such statements, the assessee in our considered opinion, had duly discharge the primary onus of proving that the deposits, in fact, represent liabilities for the assessee. The onus was on Ld. AO to rebut the same. However, Ld. AO has simply gone by the statements made by Shri Senthil Kumar, Shri Velusamy and affidavit of Shri T. Rajkumar without carrying out any independent investigation to bring on record any concrete material to rebut the contentions as made by the assessee. It is another fact that Ld. AO has not even otherwise acted on the averments made in the affidavit and already disregarded the same while framing the assessment.

8. We also find that during the course of assessment proceedings, the assessee had also produced the list of parties from whom the deposits of Rs.37.47 Crores was stated to be received. Out of the same, fifty persons were selected randomly by Ld. AO and the assessee was asked to produce the confirmations from them. The assessee furnished confirmation from all of them. From the list of person who was refunded the deposits, seven persons were summoned. Three persons appeared and confirmed the transactions. The fact the summons were returned back or the fact that the lenders lacked creditworthiness could not be held against the assessee since all these were undisclosed deposits and the depositors may not be forthcoming to confirm the transactions. Nevertheless, the aforesaid fact would not change the character of the receipts in the hands of the assessee. In such a case, having furnished the details of depositors, it would not be the onus of the assessee to prove the creditworthiness of each of the lenders. Further, the provisions of Sec.68 could be invoked only in a case when there is cash credit in the regular books of accounts as maintained by the assessee and the same remain unexplained to the satisfaction of lower authorities. The same is not the case here.

9. Finally, considering the entirety of facts and circumstances of the case, the impugned addition is liable to be deleted. We order so. The corresponding grounds stand allowed accordingly.

Facts being *pari-materia* the same, taking the same view, we delete the impugned addition and allow the corresponding grounds as raised by the assessee.

4. The second issue is cash seized for Rs.1.85 Crores. During search on assessee, cash for Rs.172.51 Lacs was found out of which cash of Rs.172.08 Lacs was seized. Shri Senthilkumar admitted that the same

represent cash deposit by the customers which was not recorded in books of account of the group. Shri Senthilkumar listed five customers from whom cash deposit of Rs.185 Lacs was received. The application forms of these customers were found and perused. Shri Senthilkumar state that the cash deposit represents unaccounted cash in the hands of the assessee. The summons were issued u/s 131(1A) to these customers which largely remained un-served / un-responded. Considering the same, the amount of Rs.185 Lacs was treated as unexplained money of the assessee and added to its income.

5. During assessment proceedings, the assessee submitted that cash found was not separate income but part of receipts already taxed by Ld. AO and the addition based on loose sheet would have no evidentiary value. The Ld. CIT(A) stated that ownership of the cash found during search was not disputed by the assessee, The assessee could not establish one to one link between the receipts already taxed and cash found during search by identifying the names of the persons in whose name the amount was shown to have been received. Shri Senthilkumar admitted that this amount was not included in the summary of cash deposits. The source for cash stated to be received from five individuals could not be established. When the assessee was found to be owner of cash, the onus would be on assessee to prove the source of the same. The assessee could not show that the names of these five persons were already reflected in the seized material as found from the laptop of Shri Senthilkumar. Accordingly, the inescapable conclusion would be that the cash of Rs.172.08 Lacs constitute unaccounted money in the hands of the assessee. The balance addition of Rs.12.92 Lacs would stand deleted since the Ld. AO was not in possession of evidence of actual

receipt of the above amount. Aggrieved, the assessee is in further appeal before us.

6. We find that no new material has been placed before us to controvert the aforesaid findings of lower authorities. Undisputedly, the onus to prove the source of cash as found from the safe vault was on assessee but the assessee could not explain the source thereof. In such a situation, the adjudication of Ld. CIT(A) do not require any interference on our part. This addition stand confirmed.

7. The appeal stand partly allowed in terms of our above order.

*Order pronounced on 10<sup>th</sup> December, 2024*

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

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

चेन्नई Chennai; दिनांक Dated :10-12-2024  
*DS*

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

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