

आयकरअपीलीयअधिकरण, 'सी', न्यायपीठ,चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'C' BENCH, CHENNAI**

माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य एवं  
माननीय श्री एस.आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE HON'BLESHRI MANU KUMAR GIRI, JUDICIAL MEMBERAND**  
**HON'BLE SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1208/CHNY/2024

**& C.O.No.35/Chny/2024**

**(in ITA No.1208/CHNY/2024)**

निर्धारण वर्ष/Assessment Year:2018-2019.

The Assistant Commissioner  
of Income Tax,  
Central Circle 2,  
Trichy

Vs.

P. Selvaraj,  
5/68,Kurumbapatty,  
Pavithram PO  
Karur 639 002.

Appellant

**PAN: BOIPS 1370G**

**Respondent/Cross Objector**

आयकर अपील सं./ITA No.1212/CHNY/2024

**& C.O.No.36/Chny/2024**

**(in ITA No.1212/CHNY/2024)**

निर्धारण वर्ष/Assessment Year:2018-2019.

The Assistant Commissioner  
of Income Tax,  
Central Circle 2,  
Trichy

Vs.

K.N. Prabhu,  
23, Bharathi Nagar,  
Karur 639 002

Appellant

**PAN: ACZPP 6832G**

**Respondent/Cross Objector**

आयकर अपील सं./ITA No.1241/CHNY/2024

**& C.O.No.39/Chny/2024**

**(in ITA No.1241/CHNY/2024)**

निर्धारण वर्ष/Assessment Year:2018-2019.

The Assistant Commissioner  
of Income Tax,  
Central Circle 2,  
Trichy

Vs.

Palaniappan Sekar,  
KPM Overseas No.12, PKT  
Complex,  
Periyar Nagar, 2<sup>nd</sup> Cross,  
Karur 639 001

Appellant

PAN: AAQPS 9006E  
Respondent/Cross Objector

आयकर अपील सं./ITA No.1242/CHNY/2024

**& C.O.No.37/Chny/2024**

**(in ITA No.1242/CHNY/2024)**

निर्धारण वर्ष/Assessment Year:2018-2019.

The Assistant Commissioner  
of Income Tax,  
Central Circle 2,  
Trichy

Vs.

Sellappa Gounder  
Ramasamy,  
No.3, Sengunthapuram,  
4<sup>th</sup> Cross, Sengunthapuram  
Karur 639 002.

Appellant

PAN: AVBPK 6741N  
Respondent/Cross Objector

आयकर अपील सं./ITA No.1243/CHNY/2024

**& C.O.No.40/Chny/2024**

**(in ITA No.1243/CHNY/2024)**

निर्धारण वर्ष/Assessment Year:2018-2019.

The Assistant Commissioner  
of Income Tax,  
Central Circle 2,  
Trichy

Vs.

Sivasubramanian,  
18, Anna Nagar Extension,  
Karur 639 002.

Appellant

PAN: APEPS 8878P  
Respondent/Cross Objector

**आयकर अपील सं./ITA No.1245/CHNY/2024**

**& C.O.No.41/Chny/2024**

**(in ITA No.1245/CHNY/2024)**

निर्धारण वर्ष/Assessment Year:2018-2019.

The Assistant Commissioner  
of Income Tax,  
Central Circle 2,  
Trichy

Vs.

Ramasamy Rajesh Kumar,  
No.33 B7, Adhisri Apartments,  
Kothari Road,  
Nungambakkam,  
Chennai 600 034

Appellant

PAN: AFGPR 3106R

Respondent/Cross Objector

**आयकर अपील सं./ITA No.1247/CHNY/2024**

**& C.O.No.42/Chny/2024**

**(in ITA No.1247/CHNY/2024)**

निर्धारण वर्ष/Assessment Year:2018-2019.

The Assistant Commissioner  
of Income Tax,  
Central Circle 2,  
Trichy

Vs.

Periyasamy Saravanan,  
43, Ramanujam Nagar,  
Karur 639 001.

Appellant

PAN: AVXPS 3135J

Respondent/Cross Objector

**आयकर अपील सं./ITA No.1248/CHNY/2024**

**& C.O.No.38/Chny/2024**

**(in ITA No.1248/CHNY/2024)**

निर्धारण वर्ष/Assessment Year:2018-2019.

The Assistant Commissioner  
of Income Tax,  
Central Circle 2,  
Trichy

Vs.

Kuppusamy Ravindran,  
1658/1659,  
Amaravathi Nagar,  
Andankovil Post,  
Karur 639 002.

Appellant

PAN: AJTPR 8607E

Respondent/Cross Objector

आयकर अपील सं./ITA No.1261/CHNY/2024  
& C.O.No.58/Chny/2024  
(in ITA No.1261/CHNY/2024)  
निर्धारण वर्ष/Assessment Year:2018-2019.

The Assistant Commissioner  
of Income Tax,  
Central Circle 2,  
Trichy

Vs.

Kandasamy Thangraj,  
4/166 Pon Nagar,  
Andan Koil East Karur,  
Karur 639 002.

Appellant

PAN: ADCPT 1756B  
Respondent/Cross Objector

Assessee by : Shri N.V. Balaji, Advocate  
Departmentby : Shri R . Clement RameshKumar, IRS, CIT.

सुनवाईकीतारीख/Date of Hearing : 23.10.2024  
घोषणाकीतारीख/Date of Pronouncement : 13.12.2024

**आदेश / O R D E R**

**PER BENCH:-**

First we take up Revenue appeal in ITA No.1241/Chny/2024 and C.O. No.39/Chny/2024 filed by the assessee Shri. Palaniappan Sekar for assessment year 2018-2019 for adjudication.

2. These appeal and cross objection are arising out of the orders of the Commissioner of Income tax (Appeals) – 19, Chennai [hereinafter referred to as the "CIT(A)"] in DIN and Order No:

ITBA/APL/S/250/2023-24/1061670083(1) dated 28.02.2024. The assessment was framed by the DCIT, Central Circle-2, Trichy (hereinafter referred to as "AO") for the assessment year 2018-19 u/s.153Cr.w.s 143(3)of the Income tax Act, 1961 (hereinafter referred to as the "Act"), vide order dated 27.12.2019.

3. The brief facts of the case are that Mr.K.Murugesaninvited few people at Karur to form a group of finance firms to carry on the business of financing/money lending. The Group consists of 77 firms, formed in Oct 2008, with an initial capital of Rs.90.09 lakhs. The assessee and his family members were partners in all 77 firms. The firms filed their income tax returns regularly.

A search operation u/s.132 of the Act was carried out on 11.11.2010 in the premises of the M/s.Cholan Auto Finance and its group. The loan liability on the date of search was Rs.29,32,89,250/-. Out of the above, the group of firms voluntarily offered a sum of Rs.3,61,35,890/- as their income for the F.Y. 2008-09, 2009-10 and 2010-11 and filed revised returns for all 77 firms. In the course of assessment, post search, additional sum of Rs.2,76,44,321/- was considered as income of the group of firms and assessment orders were passed in the hands of all 77 firms on 30.03.2013.

4. Another search operation u/s.132 of the Act was carried out in the premises of M/s.Cholan Auto Finance from 10.08.2017 to 13.08.2017 and in the course of search, a bunch of loose sheets depicting financial position of the group as at 30.06.2017 was found and seized. During the course of search, it was claimed by few partners and accountant of the group of the firms Mr.Sakthivel, in their sworn statements, that the seized document was prepared on the instruction of Mr.K.Murugesan after incorporating the interest accrued (as if fully recoverable) on all the loans given.

5. Based on the loose sheet seized, the AO completed the assessment u/s.143(3) of the Act, in the hands of the firm, M/s.Cholan Auto Finance, on 28.12.2019 making the following additions:

<b>Particulars</b>	<b>Section</b>	<b>Addition (Rs.)</b>	<b>Nature of addition</b>
Loans extinguished – Part 1 of the loose sheet	69C	2,91,92,500	Substantive
Unaccounted deposits – Part 2 of the loose sheet	69	22,22,50,000	Protective
Business Profit – Part 4 of the loose sheet	28	10,14,12,246	Substantive
Unaccounted Cash (seized)	69A	84,18,700	Substantive
Total additions		36,12,73,446	

The addition made protectively of Rs.22,22,50,000/- in the hands of the above firm, simultaneously the said amount has been assessed in the hands of partners of the firms substantively, one of such

partner is the assessee Mr.PalaniappanSekar, as their undisclosed contributions made in the firm.

6. As the amount of Rs.11,10,00,000/- mentioned in Part 3 of the loose sheet, pertaining to partners profit was omitted to be added to total income of the firm, the AO invoked the provisions of section 154 of the Act and passed an order under that section on 25.08.2021 by adding the said sum, in the hands of the firm M/s.Cholan Auto Finance, protectively.

7. Against the order of assessment passed u/s.143(3) r.w.s 153C of the Act, the assessee preferred an appeal before the Id.CIT(A)-19, Chennai, challenging the additions.

8. With reference to the protective addition of Rs.22,22,50,000/- being contribution of the partners, the main contention of the assessee before the Id.CIT(A) was that the amount was not contributed during the year under appeal. It was only opening balance. The assessee relied on the contents of seized material to support its contention. In the seized material, the amount payable to each partner, the amount of interest shown as arrears and number of months for which the interest was in arrears as at 30.06.2017 was shown. As the number of months as on 30.06.2017 was more than three months, it was assessee's contention that the amount

was opening balance as at 01.04.2017 and therefore the same could not be taxed as income of the year under appeal. The Id.CIT(A), first converted the protective addition as substantive addition in the hands of the assessee and thereafter, by accepting the contention of the assessee, held that the amount in question was only opening balance and consequently, directed the AO to delete the addition.

Aggrieved by the order of the Id.CIT(A), the Revenue filed an appeal and the Assessee filed cross objections before us.

9. The Revenue, in its appeal ITA No.1241/CHNY/2024, challenged the relief granted by the Id.CIT(A), in the appeal filed by the assessee against the order passed u/s 143(3) of the Act. The Grounds raised by the Revenue are 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 deleting the substantive addition of Rs.2,50,00,000/- towards assessee's unaccounted deposit u/s.69A in M/s.Cholan Auto Finance as a partner of the firm as evidenced by incriminating material seized during the course of search vide loose sheet titled as "CAF balance sheet-30.06.2017", contents of which were confirmed by Shri. K.Sakthivel, accountant of firm and Shri. A.Vijayan, Manager cum partner of the firm*

*2.1. The Ld.CIT(A) relied on his own order in No.CIT(A)-19/10982/2019-20 dated 27/02/2024 for AY 2018-19 against the order u/s.143(3) in the case of M/s.Cholan Auto Finance in which protective addition of Rs.22,50,00,000/- was deleted but the department preferred appeal against the said order.*

*2.2 The Ld.CIT(A) erred in accepting the submission of the firm in which the assessee is a partner that the movement of available funds from FY 2009- 10 viz., initial contribution of partners in firms, amount of deposit treated as income consequent to first search, deposit accepted in earlier years resulted into availability of balance of*

*Rs.22,45,47,917/- . The Ld.CIT(A) failed to appreciate that the firm had not furnished such explanation during the course of assessment proceedings.,*

*2.3 The Ld.CIT(A) relied on the reconciliation of movement of deposits and partner's capital account in all firms from the financial year 2009-10 furnished by the firm in which assessee is a partner. The Ld.CIT(A) erred in not providing opportunity to the assessing officer under Rule 46A to verify the reconciliation furnished by the firm during the appellate proceedings.*

*3 The Ld.CIT(A) erred in holding that the amount of deposit made would not fetch the character of unexplained money u/s.69A of the Act, without appreciating that the amount of deposit made by the assessee is out of the unexplained money in his possession during the relevant financial year.*

*4 For these grounds and any other ground including amendment of grounds that may be raised during the course of the appeal proceedings, the order of learned CIT(Appeals) may be set aside and that of the Assessing Officer be restored”.*

Although the assessee got the relief in the order passed by the Id.CIT(A), the assessee filed Cross objection as CO No.39/CHNY/2024 against the appeal filed by the Revenue challenging relief given by the Id.CIT(A) in the appeal filed by the assessee against the order passed u/s.143(3) r.w.s 153C of the Act.

10. The Grounds raised by the assessee in his cross objections are as under:

*1. The order of the Hon'ble Commissioner of Income tax (Appeals) is in correct on facts and is in accordance with law.*

*2. Re: Deletion of addition made u/s.69A:*

*a. The Hon'ble CIT(A) correctly deleted the addition of Rs.2,50,00,000/- made under section 69A as it was opening balance.*

*b. The Hon'ble CIT (A) has rightly appreciated that there was ample evidence in the seized material itself to substantiate the fact that the deposits were accepted by the firm prior to*

31.03.2017 and therefore no addition could be made in the FY 2017-18

c. The Hon'ble CIT(A) has been correct in holding that the "deposit amount" cannot fall under "unexplained money" as held by the Hon'ble Supreme Court.

3. Prayer

For the above grounds, and any other grounds that may be adduced during appellate proceedings, the defendant prays that the order of the Hon'ble CIT(A) may be upheld.

The Revenue raised the issue of deleting the addition of Rs.2,50,00,000/- towards unaccounted deposits introduced by the assessee into the firm u/s.69A of the Act.

As already observed, based on the loose sheet seized, the AO made addition of Rs.22,22,50,000/- as the income of the assessee protectively by invoking section 69 of the Act. Simultaneously, substantive additions were made in the hands of the partners also. In the hands of the assessee – respondent herein, substantive addition of Rs.2,50,00,000/- was made u/s.69A of the Act. The contents of the loose sheet, relied on by the AO, is reproduced for the sake of clarity:

Partner : P. Sekar

30/06/2017

Sl.No	Customer Name	Deposit Amount	Interest From		1 month interest	No of months	Interest payable
1	P Sekar	1,40,00,000	01.7.2016	30.6.2017	1,75,000	12	21,00,000
2	P. Subramani	60,00,000	01.7.2016	30.6.2017	75,000	12	9,00,000
3	Kumar Tricy	50,00,000	01.7.2016	30.6.2017	62,500	12	7,50,000
		2,50,00,000			3,12,500	12	37,50,000

11. Before the Id.CIT(A) the assessee contented that the addition made by the AO in the hands of the assessee protectively is unsustainable in law for the following reasons:

- a. The amount in question was opening balance and not introduced in the current year under appeal;
- b. There were ample evidences available in the seized material itself to demonstrate that the amount was opening balance;
- c. The addition was made by AO based on the seized material and no other corroborative evidence are available;
- d. No addition can be made u/s.69, in respect of opening balance;
- e. Addition u/s.69A cannot be in respect of deposits made in the partnership firm.

12. The Id.CIT(A) in his order passed u/s.250 of the Act dated 28.02.2024 by holding as under:

*6.4.15 There is no dispute about the fact that during the course of the search a bunch of loose sheet were found and seized. The AO relied upon the narrations contained in the loose sheets and the consequent statement(s) recorded from Shri. A. Vijayan, Manager of Cholan Auto Finance. The narration in the loose sheet No. 76 revealed about the deposits made by the Partners Capital totaling to Rs. 22,22,50,000/-, more particularly the detailed narration contained therein about the contribution made by each partner. The narration in the loose sheet page No. 62 describes the appellant's name as " KPMSekar" and the amount of contribution described is Rs. 2,50,00,000/-. The break up details of how each partner has deposited money are described in the page Nos. 64 to 74 of the bunch of loose sheets. While going through the loose sheet it can be seen that the amount of Rs.2,50,00,000/- is relating to the Appellant and one Mr P Subramani and Mr. Kumar Trichy. The details described in the loose sheet is reproduced as under:*

Partner : P. Sekar

30/06/2017

Sl.No	Customer Name	Deposit Amount	Interest From		1 month interest	No of months	Interest payable
1	P Sekar	1,40,00,000	01.7.2016	30.6.2017	1,75,000	12	21,00,000
2	P. Subramani	60,00,000	01.7.2016	30.6.2017	75,000	12	9,00,000
3	Kumar Tricy	50,00,000	01.7.2016	30.6.2017	62,500	12	7,50,000
		2,50,00,000			3,12,500	12	37,50,000

6.4.15 From the above details it can be seen that the Appellant was one of the partner and he himself introduced a sum of Rs.1,40,00,000/-, One Shri P.Subramani introduced Rs.60,00,000/- and One Shri Kumar, Trichy has introduced Rs.60,00,000/-. Thus, the total sum of Rs.2,50,00,000/- was in the credit in the name of the appellant. From this, it is very clear the Appellant has not introduced the entire amount of Rs.2,50,00,000/- in his individual capacity. However, the A.O. considered the entire amount of Rs.2,50,00,000/- in the hands of the Appellant as deposit introduced by him.

6.4.16 Further, it can be seen from the above table, the interest portion was worked out for the period of 12 months. Obviously, the period of 12 months cannot be relating to the F.Y. under consideration. It is proved that the deposit was not made during the period under consideration and it is the opening balance as on 01.04.2017.

6.4.17 The undersigned in the order passed u/s 250 of the Act in the case of M/s.Cholan Auto Finance for the A.Y. 2018-19, in DIN & Order No. ITBA/APL/S/250/2023-24/1061601766(1) dated 27.02.2024 has held that the deposit amount narrated in the loose sheet seized is nothing but the opening balance of the partnership firm M/s. Cholan Auto Finance. Further, the undersigned in the said order has categorically held that the corresponding cumulative amount of Rs.22,22,50,000/- being the deposit is the opening balance and not introduced during the financial year relevant to the A.Y. 2018-19, and has allowed the relevant Grounds of Appeal. Further, in the said order the A.O. was directed to delete the addition of Rs.22,22,50,000/- in the hands of the Firm M/s.Cholan Auto Finance. As the amount of Rs.2,50,00,000/- is subsumed in the amount of Rs.22,22,50,000/- the undersigned is of the considered view that there exists no need to consider the amount of Rs.2,50,00,000/- in the hands of the Appellant, either substantively or protectively. In view of this, the addition made by the A.O. in the hands of the Appellant amounting Rs.2,50,00,000/- as unexplained money as

*per the provisions of section 69A of the Act is not sustainable. Accordingly, the grounds raised by the Appellant upon this issue are hereby treated as allowed, and the A.O. is hereby directed to delete the addition of Rs.2,50,00,000/- made in the hands of the Appellant as unexplained money u/s.69A of the Act for the A.Y.2018-19.*

13. With reference to the addition made u/s.69A of the Act, the Id.CIT(A) held as under:

*"6.4.19 The A.R. during the course of Appellate Proceedings has strongly argued that the provisions of section 69A of the Act will not apply to the facts of the Appellant's case. The undersigned has duly considered the submission and argument advanced by the A.R. in this regard. While going through the assessment order it can be seen that the AO attempted to treat the amount deposited by the Appellant as "unexplained money" as per the provisions of section 69A of the Act. Before going into the merits, it is essential to bring it on record the relevant provision of section 69A of the Act.*

*69A. Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year.*

*6.4.20 On a plain reading of the section would reveal that it is the money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article in respect of which the appellant is found to be the owner, then the provisions of section 69A will squarely apply. Further there are two essential ingredients, i.e. the assessee should be the owner and the other is that such money, bullion, jewellery or valuable article found. Thus, to invoke the provisions, these two essentials things are to*

be taken into consideration. Further, the assessee should explain the nature and source to the satisfaction of the AO.

6.4.21 In the case of the appellant, what the search team has found is not any money, bullion, jewellery or valuable article but has come across only the details of deposit amounting to Rs. 2.50 Crores said to be made in the name of the Appellant. In this regard the Appellant has relied upon the decision of the Hon'ble Apex court in the case of D.N.Singh [2023 (5) TMI 746; 454 ITR 595], wherein it has been held that fixed deposit receipts seized during search are merely documents evidencing debt due to the assessee and would not carry any inherent market value and hence cannot be brought within the meaning of the term 'other valuable article'. Further the Hon'ble Apex Court while delivering the judgement in this case has endorsed the view of the Gujarat High Court in the case of BhagwandasNarayandas [98 ITR 194 (1973)]. The Hon'ble Apex Court has brought out that: .....

" The Court approves the view taken by the High Court of Gujarat in BhagwandasNarayandas (supra) that a document of title to immovable property or a fixed deposit receipt would not qualify as other valuable article."

.....

"Valuable, therefore, cannot be understood as anything which has any value. The intention of the law-giver in introducing Section 69A was to get at income which has not been reflected in the books of account but found to belong to the assessee. Not only it must belong to the assessee, but it must be other valuable articles."

.....

"The concept of 'other valuable articles' may evolve with the arrival in the market of articles, which can be treated as other valuable articles on satisfying the other tests."

6.4.22 The Gujarat High Court in the aforesaid case of BhagwandasNarayandas has held as under:

"... the question is whether the fixed deposit receipts and documents of title relating to an immovable property are the things or articles which can be evaluated in terms of money. Obviously, a document of title relating to an immovable property or even a fixed deposit receipt issued by a bank in favour of a particular person are merely the documents of title

*which, though possessing much evidentiary value, do not possess any intrinsic market value."*

.....

*"There is nothing in the record to show that the fixed deposit receipts, which are seized in this case, carry any inherent market value with them. They are merely the documents evidencing the debt due to the assessee."*

*6.4.23 The above cited judicial decisions of the Hon'ble Apex Court goes on to prove that even the fixed deposit receipts found during the course of search cannot partake the character of any money, bullion, jewellery or valuable article. In the case of the Appellant what the search team found is only the details of deposit made. Obviously, such evidence will not have the character of money, bullion, jewellery or valuable article as envisaged in the provisions of section 69A of the Act.*

*6.4.24 In view of the above decision of the Hon'ble Apex Court, the undersigned is of the considered view that since nothing in the form of any money, bullion, jewellery or valuable article were found during the course of search, there can be no case to treat the evidence found about the deposit made will fetch the character of unexplained money as provided under section 69A of the Act. In view of this the undersigned is not inclined to accept the observation of the AO to treat the same as unexplained money u/s 69A of the Act. Accordingly, the ground raised by the Appellant upon this issue is treated as allowed."*

14. Before us, the Id.DR relied on the orders of the AO and prayed for setting aside of the order of the Id.CIT(A). Further, the Ld.DR contended that the Id.CIT(A) granted the relief to the assessee based on the recasted balances from the books of account, which amounts to fresh submissions and fresh evidence which is in violation of Rule 46A of the Income Tax Rules 1962.

15. Per contra, the Ld.AR contended that the contents of the seized material clearly demonstrate that the amount in question was opening balance and the same cannot be added as income of the current year in appeal u/s.69A of the Act. Further, the Id.AR submitted that the Ld.DR did not bring any other corroborative evidence other than seized material to support the additions made. Further, the Ld. AR, however, contended that during the course of search, the books of account of all 77 firms maintained in "foxpro" software were seized as per panchanama dated 13.08.2017 read with "Annexure ANN/MP/CAF/ED/SPage1". Further, it was submitted that statements were recorded from Mr.K.Murugesan, few of the other partners of the group and Mr.Sakthivel, Accountant of the group of finance firms. Mr.Sakthivel had also confirmed that the books of account were maintained in FOXPRO server in his sworn statement dated 31.10.2008 in Q.5 and Q6 (pg 91 of the paperbook). The Ld.AR submitted that the summary/abstract of the balance sheet as at 31.03.2017 and 10.08.2017 of all the 77 firms filed before the Id.CIT(A) were only extracted from the books of account which were seized and available with the assessing officer. There is no recasting or reclassification of balances but only an extract prepared from the seized books of account. According to the AR, there was no evidence which is in the nature of fresh evidence

submitted by the Assessee during the course of proceedings before the Id.CIT(A) and thus, Rule 46A of the Income Tax Rules, 1962 has no application in the present case.

16. We have heard the learned counsel for the assessee and Revenue at length and perused the paper books and written submissions filed by the assessee and the orders of the lower authorities. It is admitted fact that the additions had been made by the AO based on incriminating material only. Further, we have observed that the financial position extracted / culled out and furnished by the assessee from the incriminating materials i.e. books of accounts maintained in the software 'foxpro' available and perused by the AO. Therefore, the extract prepared from books seized cannot be regarded as fresh evidence, within the meaning of Rule 46A of the IT. Rules 1962. Further, it is evident that the balances of receivable from the borrowers are carried forward from the preceding financial years. Hence, we find force in the argument of the Ld.AR that the opening balance cannot be added as income of the current year by invoking section 69A of the Act. Also, it is pertinent to note that the AO made addition based on the loose sheets seized but without bringing on record any other evidence to support his case that the amount in question was invested by the partner during the year under appeal. We also note that the Ld.DR

could not produce any evidence to support the point that the amount in question was invested by the partner into the firm in the impugned assessment year. In light of the above discussion, we are of the considered opinion that the amount in question, being opening balance, cannot be added as income of the assessee u/s.69A of the Act and we find no infirmity in the order of the Id.CIT(A) in so far as his direction to delete the addition made by the AO and hence, we uphold the same.

17. The next ground of invoking the provisions of section 69A of the Act, the Ld.DR relied on the order of the AO. However, the Ld.AR relied on the ruling of the Hon'ble Supreme Court in the case of D.N.Singh [2023 (5) TMI 746; 454 ITR 595]. We find force in the submission of the Ld.AR that the amount of deposit made by the partner into the firm would not fall under the provisions of section 69A of the Act and therefore, we find no infirmity in the order passed by the Id.CIT(A) in holding that the addition made u/s.69A of the Act is invalid.

18. Thus, all the grounds raised by the Revenue, relating to addition of Rs.2,50,00,000/- made by the AO towards unaccounted deposits in the hands of the assessee, directed to be deleted by the Id.CIT(A), are hereby dismissed.

19. Since, the revenue appeal is dismissed, thereby the CO filed by the assessee in support of the order of Id.CIT(A), is also dismissed as infructuous.

Since the facts and circumstances of the case of Mr.Palaniappan Sekar in ITA No.1241/CHNY/2024 & C.O.No.39/Chny/2024 for the A.Y.2018-19 (supra), are identical to the facts in the following appeals and corresponding C.O.s, therefore, our decision in the case of Mr.Palaniappan Sekar in ITA No.1241/CHNY/2024 & C.O.No.39/Chny/2024 for the A.Y.2018-19 is mutatis mutandis applicable for these cases also.

Assessee	Appeal No. of the Revenue	CO of the Assessee
P.Selvaraj	ITA No. 1208/ Chny/2024	CO 35/Chny/2024
K.N.Prabhu	ITA No. 1212/Chny/2024	CO 36/Chny/2024
Sellappagunder Ramasamy Karthik	ITA No. 1242/Chny/2024	CO 37/Chny/2024
Shivasubramaim	ITA No. 1243/Chny/2024	CO 40/Chny/2024
Ramaswamy Rajesh kumar	ITA No. 1245/Chny/2024	CO 41/Chny/2024
Periyasamy saravanan	ITA No. 1247/Chny/2024	CO 42/Chny/2024
Kuppusamy Ravindran	ITA No. 1248/Chny/2024	CO 38/Chny/2024
Kandasamy Thangaraj	ITA No. 1261/Chny/2024	CO 58/Chny/2024

20. In the result, all the appeals of the Revenue and all the COs of the assessee are dismissed.

Order pronounced in the open court on 13<sup>th</sup> December, 2024

Sd/-

(□□□ □□□□□ □□□□)

**(MANU KUMAR GIRI)**

□□□□□□□□□□□□□□ / **JUDICIAL  
MEMBER**

Sd/-

(एस . आर. □□□□□□□□)

**(S.R. RAGHUNATHA)**

□□□□□□□□□□□□□□ / **ACCOUNTANT  
MEMBER**

न्नई/Chennai,

दिनांक/Dated, the 13<sup>th</sup> December, 2024

**KV**

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

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