

आयकर अपीलीय अधिकरण “ए” न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, CHENNAI

माननीय श्री एबी टी. वर्की, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।
BEFORE HON’BLE SHRI ABY T. VARKEY, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं. ITA No.540/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2021-22)

| | | |
|---|----------------------|---|
| ACIT Central Circle-1, Trichy. | बनाम/ Vs. | Shri Nallappa Rengarajan 57, NRR Finance, Chinthamani Bazaar Trichy-620 002. |
| स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. AABPR-2162-D | | |
| (अपीलार्थी/ Appellant) | : | (प्रत्यर्थी / Respondent) |

| | | |
|---|---|--|
| अपीलार्थी की ओर से/ Appellant by | : | Shri Ashwin D. Gowda (Addl.CIT) - Ld. Sr. DR |
| प्रत्यर्थी की ओर से/ Respondent by | : | Shri R.Viswanathan (CA) - Ld. AR |

| | | |
|---|---|------------|
| सुनवाई की तारीख/ Date of Hearing | : | 27-01-2025 |
| घोषणा की तारीख / Date of Pronouncement | : | 03-02-2025 |

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by revenue for Assessment Year (AY) 2021-22 arises out of the order of learned Commissioner of Income Tax (Appeals), Chennai-19 [CIT(A)] dated 05-01-2024 in the matter of an assessment framed by the Ld. AO u/s.143(3) of the Act on 30-03-2022.

The grounds taken by the revenue 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 deleting the addition of Rs.2,04,52,883/- made towards unexplained credit u/s.68 in respect of cash deposits in bank account of the assessee.

2.1 The CIT(A) erred in accepting the assessee's explanation that an amount of Rs.1,74,52,883/- was out of redemption/realization of jewel loans by comparing the outstanding gold loans on 31/03/2020 and

01/02/2021, without appreciating that the assessee has not furnished details of borrowers, date of loan, date of redemption, mode of receipt etc to substantiate that the cast, is accumulated out of redemption of jewel loans.

2.2 The CIT(A) erred in accepting the assessee's explanation that an amount of Rs. 30,00,000/- was out of withdrawals made from the same bank account, without appreciating that the assessee has not explained the reasons for withdrawal and re-depositing the same in the bank account. The assessee has not proved nexus between withdrawal and redeposit of cash in the bank account before the assessing officer.

As is evident, the revenue is aggrieved by deletion of certain additions as made by Ld. AO in the assessment order.

2. The Ld. Sr. DR advanced arguments and supported the assessment order whereas Ld. AR referred to the finding of Ld. CIT(A) in the impugned order. Reference has been made to various documents as placed on record. Having heard rival submissions and upon perusal of case records, our adjudication would be as under. The assessee being resident individual is stated to be engaged in the business of pawn broking under proprietorship concern namely M/s NRR Finance.

Assessment Proceedings

3.1 The assessee admitted income of Rs.119.46 Lacs in its return of income. The impugned additions stem from the fact that during Tamilnadu State General Assembly Elections, 2021, information was received that cash of Rs.10 Lacs was withdrawn from the bank account of M/s NRR Finance. In order to verify the source and purpose of withdrawal, a search was conducted u/s 132 in the office premises of M/s NRR Finance on 14-03-2021. During search, certain incriminating books and documents were found and seized. The physical cash was found for Rs.25.32 Lacs as against book balance of Rs.5.29 Lacs. The cash of Rs.20 Lacs was seized. Shri D.Ramgopal (Manager) admitted that

interest income was not recorded properly in the books and accordingly, he made admission of Rs.75 Lacs over and above regular income. Subsequently, the return of income was subjected to scrutiny in accordance with law. In the show-cause notices, the assessee was directed to explain the source of cash of Rs.20 Lacs.

3.2 The assessee stated that cash found was on account of additional interest income earned during the year and entire cash found was only business funds of the assessee and the same was to be considered as business income only. The assessee drew attention to the fact that it offered additional income of Rs.75.57 Lacs in the return of income. Accordingly, the assessee pleaded for grant of telescoping benefit of the same. However, Ld. AO rejected the same and added the cash of Rs.20 Lacs as unexplained money u/s 69A r.w.s. 115BBE.

3.3 Upon perusal of certain loose sheets, it was noted by Ld. AO that the assessee accounted part of interest income in the regular books whereas remaining interest was not accounted and kept as cash. The assessee offered normal interest income of Rs.96.84 Lacs and admitted additional interest income of Rs.75.57 Lacs which was accepted by Ld. AO and no addition was made for this discrepancy.

3.4 It further transpired that the assessee made cash deposit of Rs.275.70 Lacs during this year in current account which was stated to be sourced out of redemption of jewel loans, withdrawals from banks and gross interest receipts. The assessee filed details under each of the head which was as under: -

| No. | Particulars | Amount (Rs.) |
|-----|---|--------------|
| 1. | Redemption / Realization of Jewel Loans | 174.52 Lacs |
| 2. | Gross interest receipts in cash till 01.02.2021 | 70.20 Lacs |
| 3. | Previous cash withdrawals from the bank account | 30.00 Lacs |

| | | |
|----|--------------------------|--------------------|
| 4. | Out of cash accumulation | 6.40 Lacs |
| | Total | 281.13 Lacs |

The redemption of jewel loan was stated to be for Rs.174.52 Lacs. The same was rejected by Ld. AO on the ground that the assessee did not furnish documentary evidences. The gross interest receipts in cash were stated to be for Rs.70.20 Lacs which was accepted by Ld. AO. The cash withdrawals were stated to be for Rs.30 Lacs. The same was rejected by Ld. AO on the ground that the assessee did not explain the reasons for withdrawals and re-deposit of cash. The explanation for cash accumulation for Rs.6.40 Lacs was also not accepted. Finally, out of aggregate cash deposits of Rs.285.70 Lacs, the explanation was accepted for Rs.70.20 Lacs and the remaining amount of Rs.215.49 Lacs was added as unexplained cash credit u/s 68 r.w.s. 115BBE and the assessment was framed.

Appellate Proceedings

4.1 The Ld. CIT(A), in para 6.2.5, noted that the Jewels Loans outstanding as on 01-04-2020 were Rs.714.54 Lacs whereas the same as on 01-02-2021 were Rs.540.01 Lacs. The reduction was on account of net realization of jewels loans to the extent of Rs.174.52 Lacs which was deposited in bank accounts on various dates. Further, there were cash withdrawals on various dates which were stated to be deposited in bank accounts. There was reduction in cash balance to the extent of Rs.6.40 Lacs. It was also noted that all such entries were duly recorded in the books of accounts. The Ld. AO rejected the explanation on the ground that above explanation was different from the one given during the course of search. The stand of the assessee was that the statement of manager during search could not be taken into consideration since the

explanation of the assessee was as per seized books of accounts. In support, the assessee furnished cash book from the period 01-04-2020 to 13-03-2021 along with bank statement and extracts of jewel pledge register. The assessee also stated that actual cash deposited was Rs.275.70 Lacs and the remaining amount of Rs.10 Lacs was Cheque deposit which was erroneously treated as cash deposit by Ld. AO.

4.2 The Ld. CIT(A), upon perusal of bank statements, concurred that cash deposits were for Rs.275.70 Lacs and not Rs.285.70 Lacs as considered by Ld. AO. Further, the business model of the assessee was such that it was lending loans against pledging of gold jewellery. The borrowers would pledge jewellery and take loans in cash. Upon repayment of loan with interest, the pledged jewellery would be redeemed by the pledgers. The increase in jewel loan balance represents fresh disbursements where decrease represents redemption / realization. The inflow and outflow of cash is quite normal and inevitable in the business. The opening jewel loan for Rs.714.54 Lacs was in line with the amount disclosed in the audited financials as on 31-03-2020. On 01-02-2021, outstanding jewel loan balance was for Rs.540.01 Lacs which was not disputed. Thus, there was reduction for Rs.174.52 Lacs which implies net realization of jewel loans. Therefore, the explanation of the assessee was to be accepted. Further, the assessee was having sufficient cash-in-hand before every deposit in the bank account. No negative cash balance was found. The source of cash balance was out of net realization of jewel loans. The Ld. AO neither disputed the cash book nor rejected the books of account. The Ld. AO accepted the balance of jewels loan and assessed interest arising there from. Therefore, the subsequent realization of loan could not be disputed upon.

No incriminating material was found during search which was contrary to aforesaid explanation.

4.3 On the issue of cash withdrawal, it was noted that the assessee withdrew aggregate amount of Rs.30 Lacs from 07-05-2020 to 01-02-2021 which was duly recorded in the cash book. No contrary evidence was found during search to indicate that the assessee utilized cash withdrawals for any other purposes. There was not much time gap between the cash withdrawals and re-deposit. Therefore, the explanation of the assessee was to be accepted to that extent. The remaining amount of Rs.0.96 Lacs was also supported by cash balance as available in the cash book. Accordingly, the impugned addition of Rs.215.49 Lacs was deleted.

4.4 On the issue of cash seizure of Rs.20 Lacs, Ld. CIT(A) noted that the assessee offered additional interest income of Rs.75.57 Lacs and telescoping benefit of the same would be available to the assessee against this addition. Since the assessee was not having any other source of income, the telescoping benefit of the additional interest income was to be granted to the assessee. Therefore, the addition of Rs.20 Lacs was also deleted. Aggrieved, the revenue is in further appeal before us.

Our findings and Adjudication

5. From the facts, it clearly emerges that the assessee is engaged in the business of pawn broking which is primarily conducted in cash. The assessee was lending loans against pledging of gold jewellery. The borrowers would pledge jewellery and take loans in cash. Upon repayment of loan with interest, the pledged jewellery would be redeemed by the pledgers. The increase in jewel loan balance, as rightly

held by Ld. CIT(A), would represent fresh disbursements where decrease would represent redemption / realization. The finding of Ld. CIT(A) is that the assessee was having opening Jewels Loans as on 01-04-2020 for Rs.714.54 Lacs whereas the same as on 01-02-2021 were Rs.540.01 Lacs. In effect, there was reduction / net realization of jewels loans to the extent of Rs.174.52 Lacs which would be available to the assessee for making deposit in the bank accounts. The opening Jewel loans were supported by audited financial statements of earlier years. The closing jewel loans balance has also not been disputed by Ld. AO. The books have not been rejected. The assessee has furnished cash book, bank statements and extract of jewel pledge register wherein no discrepancy has been pointed out by Ld. AO. The cash deposits of Rs.30 Lacs are evidenced by earlier withdrawals from the bank. The assessee was having sufficient cash-in-hand before every deposit in the bank account. No negative cash balance was found. The Ld. AO neither disputed the cash book nor rejected the books of account. The Ld. AO accepted the balance of jewels loan and assessed interest arising there from. Therefore, the subsequent realization of loan could not be disputed upon. No incriminating material was found during search which was contrary to aforesaid explanation. Considering all these facts, no fault could be found in the adjudication of Ld. CIT(A). We also concur with the action of Ld. CIT(A) in granting telescoping benefit of additional interest income of Rs.75.57 Lacs as offered by the assessee in the return of income against cash seizure of Rs.20 Lacs.

6. In the result, the appeal stand dismissed.

Order pronounced on 3rd February, 2025

Sd/-
(ABY T. VARKEY)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai; दिनांक Dated : 03-02-2025
DS

आदेश की प्रतिलिपि ँ ग्रेषित / Copy of the Order forwarded to :

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