

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL 'B' BENCH: CHENNAI
श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री अमितभ शुक्ल लेखासदस्य के समक्ष
BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2301/Chny/2024
निर्धारण वर्ष/**Assessment Year: 2017-18**

Shri Jayaram Balasubramanian,
743/5, Duraikulam Shop,
Madurai Road,
Pallapatty Village Begampur Post,
Dindigul – 624 001.

Vs. The Assistant Commissioner of
Income Tax,
Non-Corporate Circle 4(1),
Chennai.

[PAN: AEGPB 9719R]

(अपीलकर्ता/Appellant)

(प्रत्यर्थी/Respondent)

अपीलकर्ता की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri G. Tarun, Advocate
: Shri Keerthi Narayanan, JCIT

सुनवाई की तिथि/Date of Hearing

: 23.12.2024

घोषणा की तिथि /Date of Pronouncement

: 05.02.2025

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals) / NFAC (hereinafter in short "CIT(E)") dated 27.08.2024 for assessment year 2017-18 (hereinafter in short "AY").

2. The main grievance of the assessee is against the action of the Ld.CIT(A) in passing a cryptic non-speaking order without considering the



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application filed by the assessee for admission of additional evidence under Rule 46A of the Income-Tax Rules, 1962 [herein after “Rules”].

3. Brief facts are that the assessee is an individual carrying on business of leather products in the name and style of M/s. AJB Leather. The assessee filed his return of income for AY 2017-18 on 03.11.2017 declaring gross total income of Rs.43,42,463/- and taxable income of Rs.41,66,300/-. Later the case of the assessee was taken up for scrutiny in CASS and the AO noted that the assessee has introduced fresh capital of Rs.1,85,97,000/- into his business and asked the assessee to explain the source of the capital. However, according to the AO, the assessee failed to explain the source and therefore, he made an addition of Rs.1,85,97,000/- u/s.68 of the Income Tax Act, 1961 [herein after “Act”]. Aggrieved, the assessee preferred an appeal before the Ld.CIT(A) and filed Form No.35, wherein the assessee brought to his notice that he (assessee) is staying 500 Kms. away from Chennai and therefore could not appear before the AO as directed by him on 10.12.2019; and that assessee’s Ld.AR appeared before AO on 13.12.2019, wherein he was informed that assessment order has been already passed on 12.12.2019. Thus, the assessee submitted that relevant evidences/materials couldn’t be filed before AO during the assessment proceedings.



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4. The assessee also filed written submissions before the First Appellate Authority which fact is discernible from the e-proceedings acknowledgment kept at page 1 of PB, which reveals that assessee had uploaded written submission on 08.01.2024 along with four enclosures and the copy of written submission uploaded before the Ld.CIT(A), which facts are discernible from the copy found placed at page Nos. 3 to 5 of the PB, wherein the assessee has explained that the major component leading to the increase in capital was on account of the amount received from the assessee's wife Smt. Sasikala B, who is the proprietrix of M/s. Mukesh Impex and filed the following chart explaining/reconciling the source of increase in capital to the tune of Rs.1,85,97,000/-, which is noted as under:-

S.No.	Date	Particulars	Amount (Rs.)	Bank Account
1	15.07.2016	Amount received from Mukesh Impex (Proprietorship of Assessee's wife)	5,00,000/-	OBC Bank
2	05.08.2016	Amount received from Mukesh Impex (Proprietorship of Assessee's wife)	3,00,000	OBC Bank
3	11.08.2016	Kattaria Advance	75,000/-	
4	02.01.2017	Amount received from Mukesh Impex (Proprietorship of Assessee's wife)	15,00,000/-	OBC Bank
5	03.01.2017	Amount received from Mukesh Impex (Proprietorship of Assessee's wife)	80,00,000/-	OBC Bank
6	12.01.2017	Cash	12,000/-	ICICI Bank



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7	01.02.2017	Amount received from Mukesh Impex (Proprietorship of Assessee's wife)	50,000/-	ICICI Bank
8	13.02.2017	Contra Entry	50,000/-	ICICI Bank
9	31.03.2017	Mukesh Impex (Opening Balance) transferred through journal	81,00,000/-	OBCBank (earlier year)
		TOTAL	Rs.1,85,97,000/-	

The assessee has also filed the following documents: -

- i) Bank statements of the assessee maintained with Oriental Bank of Commerce in A/c No.06594011000011 pertaining to the AY 2017-18. Enclosed as Annexure-A.
- ii) Bank statements of M/s. Mukesh Impex (Proprietorship of the assessee's wife) maintained with Oriental Bank of Commerce in A/c. No.06591131000068 pertaining to the AY 2017-18. Enclosed as Annexure-B

5. Further, the Ld.AR brought to our notice that assessee had opening balance of Rs.81,00,000/- (Sl.No.9 of the above chart), payable to M/s. Mukesh Impex as on 01.04.2016, which amount was also transferred to the capital account of the assessee; and the assessee has also filed the break-up of the amount paid to M/s. Mukesh Impex reflecting in the books of accounts, which was also filed as additional evidences before the



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Ld.CIT(A). The assessee also filed the bank statements of M/s. Mukesh Impex (Proprietorship of the assessee's wife) maintained with Oriental Bank of Commerce in A/c. No.06591131000068 pertaining to the AY 2016-17 as Annexure-C, which captures the payments made to the assessee.

6. Even though, the aforesaid relevant documents and explanation of the source of capital introduced to the tune of Rs.1,85,97,000/- was filed before the Ld.CIT(A), however, the Ld.CIT(A) ignored the evidences and has passed a cryptic order blaming the assessee for not adducing any evidence and has upheld the action of the AO, which impugned action of the Ld.CIT(A) cannot be countenanced and therefore, we set aside the impugned order; and taking note that as per the scheme of Income Tax Act, the AO is the primary authority who is vested with the power to examine the facts as well as law to determine the correct taxable income of the tax payer. And since relevant evidences couldn't be filed before AO, for the ends of justice and fair play, we are of the view that one more opportunity should be given to the assessee for proving the source of capital introduced. With the aforesaid observation, we set aside the impugned order of the Ld.CIT(A) and restore the assessment back to the file of the AO with a direction to frame the assessment de novo after hearing the assessee and after considering the aforesaid/relevant



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(AY 2017-18)
Jayaram Balasubramanian

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evidences adduced by the assessee. The Ld.AR is directed to file relevant documents/written submissions before the AO and the AO to de novo pass assessment order in accordance to law after hearing the assessee.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on 05th February, 2025 at Chennai.

Sd/-
(अमिताभ शुक्ला)
(AMITABH SHUKLA)
लेखा सदस्य/ACCOUNTANT MEMBER

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

चेन्नई/Chennai,
दिनांक/Dated: 05th February, 2025.
RSR

आदेश की प्रतिलिपि □ ग्रेषित/Copy to:

1. □ पीलार्थी/Appellant,
2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, Chennai
4. विभागीय प्रतिनिधि/DR &
5. गार्ड फाईल/GF.