

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI**

श्री एस एस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI S.S. VISWANETHRA RAVI, HON'BLE JUDICIAL MEMBER
AND SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.: **2259, 2260 & 2261/Chny/2024**

निर्धारण वर्ष / Assessment Years: 2014-15, 2015-16 & 2016-17

Valikaramuthu Subramanian Assistant Commissioner of
Natarajan, v. Income-tax,
No. 104-B, 3rd Street, Central Circle -3(2),
Mangalapuram, Medical College Chennai.
Road, VOC Nagar,
Thanjavur – 613 007.

[PAN: ACYPN-0616-R]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. Y. Sridhar, FCA

प्रत्यर्थी की ओर से/Respondent by

: Shri. Nilay Baran Som, CIT

सुनवाई की तारीख/Date of Hearing : 12.12.2024

घोषणा की तारीख/Date of Pronouncement : 18.02.2025

आदेश / O R D E R

PER S. R. RAGHUNATHA, AM:

These three appeals by the assessee are filed against the separate orders of the Commissioner of Income Tax (Appeals), Chennai-20, for the assessment years 2014-15 to 2016-17 vide order dated 29.06.2024. Since, facts are identical and issues are common, for the sake of convenience, these appeals were heard together and are being disposed off, by this consolidated order. Ld. AR requested us to take up the appeal for AY 2014-15 as a lead case, thus we proceed to take

up the case. First, we shall take up ITA No. 2259/Chny/2024 for AY 2014-15.

2. The assessee has raised the following grounds of appeal:

1. The order of the Ld. PCIT is contrary to law, facts and opposed to the principles of natural justice and fair procedure.

2. The Id. PCIT has failed to appreciate the fact that as per Explanation 2 (a) to Section 263, "...an order passed by the AO shall be deemed to be erroneous, if the order is passed without making inquiries or verification which should have been made". In the instant case, a thorough scrutiny has been carried out by the Ld.AO, being a search assessment, after giving enough opportunities to the appellant to appear and explain the case during the assessment proceedings. Hence, invoking Section 263 is not justified.

3. The Ld. PCIT has erred in passing the order without considering the detailed submissions filed by the appellant in response to notice u/s 142(1) dated 09/07/2021.

4. Where AO has carried out adequate enquiries in original assessment proceedings after considering the seized materials unearthed from the premises of M/s.Pechis Castle LLP and accepted the contentions of the assessee by accepting the additional income, and passed a well-reasoned order, revision proceedings u/s.263 merely based on audit objection on similar subject, could not be invoked.

5. If two views are legally possible and the AO adopts one of the plausible views assessment orders can't be said to be erroneous for the CIT to invoke jurisdiction u/s.263 of the IT Act.

6. If the AO has not provided detailed reasons with respect to each and every item of transaction in the order, that by itself would not reflect a non-application of mind by the AO.

7. The Ld. PCIT has erred in passing the order without considering the detailed Submissions filed by the appeal ant in response to notice u/s 263 along with Supporting documents filed at the stage of investigation itself and deposed in the Sworn statements in the search proceedings with respect to the issues that are presently considered in the notice u/s 263.

8. Even assuming without accepting that there is inadequate enquiry, still that Would not confer the power of revision u/s 263 of the act on the Commissioner.

9. For the above grounds and such other grounds that may be adduced at the time of hearing, the appellant prays that the appeal be allowed by quashing the order of the Id. PCIT and to meet justice.

10. The appellant craves leave to amend alter or delete any of the above grounds of appeal."

The only issue arises from the above grounds of assessee is an addition made by AO in the order u/s.153C r.w.s. 143(3) of the Act on account of alleged undisclosed interest income based on the noting of 'Madras Interest' found recorded in the materials seized from M/s.Kals Group of Concerns and statement made by one Mr.S.Nadesan. Since, the facts are identical in all the three appeals, we will take up the appeal of the assessee for the Asst. year 2014-15 as a lead case and adjudicate thereon;

3. Briefly stated facts are that the assessee is an individual engaged in the business of buying and selling of bottles in the name and style of M/s. Devi Enterprises. For the A.Y. 2014-15, the assessee filed his return of income on 20/12/2014 declaring total income of Rs.17,02,090/-. Subsequently, the assessment order u/s.143(3) of the Act was passed on 22.12.2016 by making an addition of Rs.1,95,595/- towards difference in sundry creditors and assessed a total income of

Rs.18,97,685/-. The assessee is the founder of Devi Bottles group of concern functioning from #169A, Sundaram Nagar, Medical college road, Tanjavur – 613 004. The assessee was searched u/s.132 of the Act, on 06.08.2019 in connection with the search in the case SNJ Distillery Pvt Ltd group of cases. During the course of search, from the evidence found seized, it was seen that they were supplying empty old bottles mainly to Kals Distilleries pvt. Ltd. group of cases which was also searched u/s.132 of the Act on 09.08.2019 and resorting to issue of inflated purchase invoices and thereby earning commission income which was unaccounted. During the course of search in the residential premises of Shri S.Nadesan, JMD of M/s.Kals group, an Apple Mac Laptop seized vide ANN/MS/SM/ED/S, Excel sheets – titled, spent new.xlsx, spent new-2.xlsx etc. were found containing details of cash sales of spent malt to various vendors out of which cash sales of spent malt made to M/s.NTN Agro Products, one of the concerns run by Shri.V.Muthukumar, who is the brother in law of Shri V.S.Natarajan of M/s.Devi Group during the F.Ys. from 2016-17 to 2017-18 were found.

4. Consequent to search, notice u/s.153C was issued on 14.02.2021 in case of assessee. In response to the same the assessee has filed Return of Income on 15.07.2021 declaring a total income of Rs.57,47,685/-. During the course of search proceedings conducted in the residential premise of Shri S.Rajasekaran at Old No.16, New No.21, Annavasal Salai, Nedungadu, Karaikal District, Loose sheets and electronic devises were found from the front office of the residential premise and same were seized vide ANN/SRN/SR/LS/S dated 10.08.2019 and ANN/DSG/VSN/ED/S dated 22.09.2019 which contain the details of interest payments made in cash under the heads 'Madras Interest' amounting to Rs.1,50,00,000/- and 'TNJ Mr.Nadarajan Interest' amounting to Rs.1,21,25,000/-. When the appellant was questioned about the same, in the sworn statement u/s.131 of the Act, dated 25.01.2020, in his answer to question No.12 therein, the appellant stated that the interest income received through banking channels have been admitted in the ITRs for the respective financial years and the appellant also agreed that portion of interest was received in cash. Further, the appellant stated that interest mentioned under the head 'TNJ Mr.Nadarajan Interest' amounting to Rs.1,21,25,000/- was

received by him and the interest amounts mentioned under the head "Madras Interest" amounting to Rs.1,50,00,000/- in the seized materials does not belong to him.

5. On perusal of the documents and submissions of the assessee the AO passed an order by holding as under:

5.4 The FYs wise of interest under 'TN Mr. Natarajan interest' is as under:

FY	Undisclosed interest income (Rs.)
2013-14	38,50,000/-
2014-15	34,75,000/-
2015-16	23,00,000/-
2016-17	15,00,000/-
2017-18	10,00,000/-
Total	1,21,25,000/-

The FYs wise of interest under 'Madras Interest' is as under:

FY	Interest paid in cash (Rs.)
2013-14	66,50,000/-
2014-15	72,25,000/-
2015-16	11,25,000/-
Total	1,50,00,000/-

5.4.1 However, the assessee has not accepted the interest receipts in cash under the head 'Madras Interest' amounting to Rs.1,50,00,000/- as above.

5.5 Since the appellant has not provided the details of such actual parties/persons whom the interest income relates, the Assessing Officer added interest income for the AY 2015-16 amounting to Rs.72,25,000/-

5.6 Assessment u/s. 153C r.w.s. 143(3) completed as under.

Returned Income u/s. 153C	Rs.1,50,02,854
Addition made:	
i) Interest under Madras interest	Rs.72,25,000
ii) Interest disallowed in the computation of business income	Rs.28,77,640
Assessed income	Rs.2,51,05,494/-"

Aggrieved by the order of the AO u/s.153C r.w.s. 143(3) dated 29.09.2021, the assessee preferred an appeal before the Id.CIT(A), Chennai – 20.

6. The Assessee filed a detailed submission before the Id.CIT(A) and prayed for deleting the impugned additions. However, the Id.CIT(A) after considering the written submissions of the assessee was not convinced and pleased to confirm the additions made by the AO by passing an order dated 29.06.2024 by holding as under:

"7.2.3 *During the course of assessment proceedings, the AO asked appellant to furnish details of parties from whom he has arranged loans to Kals Group and collected interest on their behalf. Since appellant failed to furnish any details, the AO has added interest income pertaining to the year grouped under the head 'Madras Interest' of Rs.72,25,000/- in the hands of appellant.*

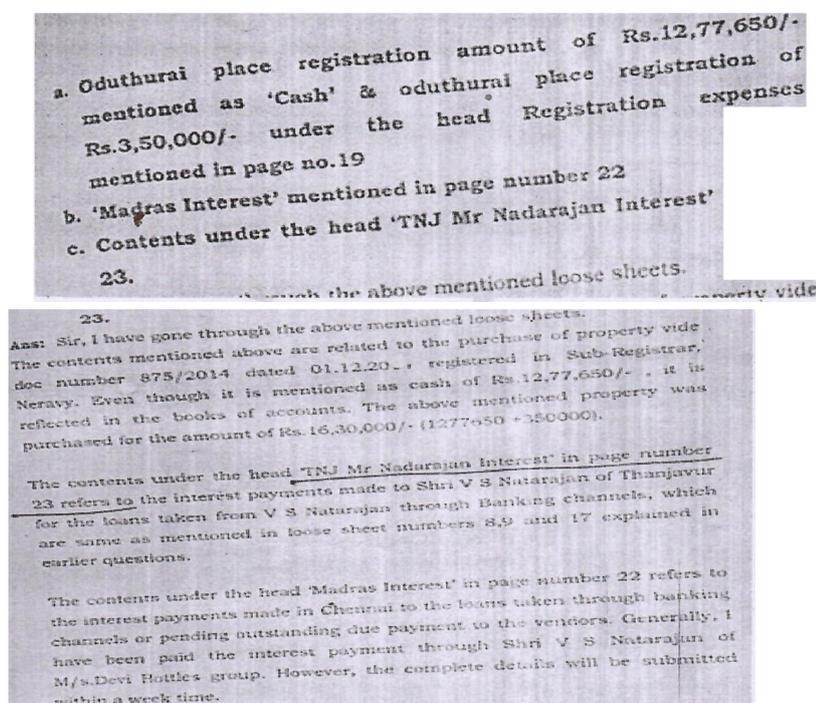
7.2.4 *During appeal proceedings, Submissions made appellant by against above addition can be summarized as under.*

- 1. The AO made addition based on incorrect interpretation of statement given by appellant.*
- 2. Statement of Shri Nadesan makes it clear that the interest payment does not only refer to interest payment on loans taken at Chennai but also interest paid on outstanding dues to vendors.*
- 3. Shri Nadesan never stated that appellant has arranged loans, he only stated that interest payments are made through appellant.*
- 4. The AO should have collected details of loans taken at Chennai wrt which interest is paid. Similarly, AO should have collected details of vendors to whom interest is paid*

on outstanding dues from Sri Nadesan being AO of him too.

5. Further narration in loose sheet 23 which pertain to head 'TNJ Natarajan Interest' and loose sheet 22 pertaining to head 'Madras interest' shows that since interest payments in loose sheet 23 pertaining to appellant his name is clearly mentioned there. In loose sheet 22, name appellant is not mentioned since it does not pertain to appellant. It is generally named as 'Madras interest'.

7.2.5 I have examined contentions raised by appellant in the background of facts of case. It is noticed that entire addition is based on statement of Sri Nadesan wrt loose sheet no 23 containing details of payment of interest.



7.2.6 It is noticed that Sri Nadesan was asked to explain contents of both loose sheet 22 and 23 together by way of single question while recording his sworn statement. It is noticed that While Explaining contents of loose sheet no 23 pertaining to 'TNJ Mr.Nadarajan Interest', Sri Nadesan stated that it pertains to interest payments made to Sri Natarajan wrt loans taken through banking channel.

7.2.7 In case of loose sheet 22 named 'Madras interest', he stated that it contains interest paid at Chennai wrt loans taken through banking channel. However, he has not specified name of

person from whom such loans are taken through banking channel wrt loose sheet 22. The very fact that he omitted to specify name of person from whom loans are taken indicates that he is referring to Sri Natarajan. Had it been different person, he would have specified name/s or person/s. Since he just specifically taken name of Sri Natarajan in preceding para of statement while explaining contents of loose sheet 23(TNJ Mr.Nadarajan Interest), he has not again mentioned Sri Natarajan's name while explaining contents of loose sheet 22 (Madras Interest). It can be concluded that loose sheet 23 represents interest paid to Sri Natarajan at Tanjore on loans taken from him and loose sheet 22 represents interest paid to Sri Natarajan at Chennai on loans taken from him through banking channel.

7.2.8 Sr Nadesan stated that loose sheet 22 (Madras Interest) also contains details of interest paid on account of outstanding dues. He stated that such interest payments are usually made through Sri Natarajan. The Fact that appellant makes payments to third parties (Customers/suppliers of Kais group) on instructions of Sri Nadesan out of cash returnable to Kals Group is not denied (Modus operandi of Devi Bottles Group i.e. over invoicing of sales of bottles to Kals Group, Returning of Cash attributable to over **invoiced** sale price out of bank payments received from Kais Group towards purchase of bottles has been accepted by appellant). But loose sheet 22 (Madras Interest') contains details of persons who handed over interest amount at Madras. If loose sheet contains details of interest paid through Sri Natarajan, his name would have been mentioned. Relevant loose sheet is reproduced as under:

7.2.9 But loose sheet 22 mentioned names of different persons who made interest payment at Madras on behalf of Sri Nadesan like Balu, SR, SV, Moorthy etc. Name of appellant is conspicuously absent from above loose sheet. Since name of appellant is not appearing, it can't be concluded that above interest payments are made by appellant on behalf of Sri Nadesan. But since interest payment is wrt loans received by Sri Nadesan through banking channel which as per discussion made above are concluded to have been received from Sri Natarajan, it can be inferred that it is appellant that has received interest amount of Rs.72,25,000/- for assessment year. The fact that appellant failed to furnish details parties to whom above interest payments are made on behalf of Kals Group in spite of arguing the sales shows that he received the interest mentioned in seized material under the head 'Madras Interest'. In fact, if part of above amounts are paid by appellant

to third parties or behalf of Kals Group as stated by him, first of all in loose sheet it would have been mentioned as 'payment through Natarajan' and secondly there should not be any problem for appellant in providing such details because he would keep track of amounts paid on behalf of Sri Nadesan and to that extent cash need not be returned by him. But Appellant failed to furnish any details, not provided any explanation for such failure. Therefore, it can be concluded basing on statement of Sri Nadesan who stated that Madras Interest represents interest paid on loans received through banking channel at Chennai and in view of fact that the appellant has not denied advancing loans to Sri Nadesan through banking channel, receipts of interest in cash, it is concluded that the AO has rightly held that interest mentioned under the head 'Madras Interest' in seized material represents unaccounted interest received by appellant during the year. Consequently, grounds relating to the issues are dismissed."

Aggrieved, the assessee preferred an appeal before us.

7. The Ld.AR for the assessee assailing the action of the Id.CIT(A) stated the AO and that of Id.CIT(A) have erred in understanding the facts and the sworn in statements made before them and hence passed the impugned order by making an addition of interest. In support of the issue the Ld.AR filed a consolidated paper book consisting of 189 pages for the A.Ys 2014-15, 2015-16 and 2016-17 detailed below:

Sl. No.	Particulars	Page reference	
1	Notice u/s 153C dated 14.02.2021 for AY 2014-15	1	1
2	Acknowledgement for Return of Income filed u/s 153C dated 15.07.2021 for AY 2014-15	2	2
3	Computation of Statement of Total Income for the AY 2014-15	3	3
4	Submission to 142(1) dated 09.09.2021	4	12
5	Assessment order u/s 143(3) r.w.s 153C of the Act dated 29.09.2021	13	18
6	Form 35 filed along with Grounds of appeal and	19	30

	statement of facts		
7	Common written submission dated 18.06.2024 for AYs 2014-15 / 2015-16 and 2016-17 filed before CIT(A) - 20.	31	47
8	Relevant extracts of Q.No.13 and answer of the sworn statement recorded u/s 132(4) from S. Nadesan on 21.09.2019 along with relevant copy of Seized material	48	51
9	Relevant extracts of Q.No.12 and answer of the sworn statement recorded us 131 of the Act from V S Natarajan on 25.01.2020	52	52
10	Extract of submission made before the DDIT(Inv), Unit 2(2), Chennai dated 31.01.2020	53	53
11	Order u/s 250 of the Income Tax Act, 1961 dated 29.06.2024	54	72
12	Form 36 filed along with grounds of appeal and statement of facts	73	78
13	Notice u/s 153C dated 14.02.2021 for AY 2015-16	79	79
14	Acknowledgement for Return of Income filed u/s 153C dated 15.07.2021 for AY 2015-16	80	80
15	Computation of Statement of Total Income for the AY 2015-16	81	81
16	Assessment order u/s 143(3) r.w.s 153C of the Act dated 29.09.2021	82	91
17	Form 35 filed along with Grounds of appeal and statement of facts	92	103
18	Order u/s 250 of the Income Tax Act, 1961 dated 29.06.2024	104	122
19	Form 36 filed along with grounds of appeal and statement of facts	123	128
20	Notice u/s 153C dated 14.02.2021 for the AY 2016-17	129	129
21	Acknowledgement for Return of Income filed u/s 153C dated 15.07.2021 for the AY 2016-17	130	130
22	Computation of Statement of Total Income for the AY 2016-17	131	131
23	Assessment order u/s 143(3) r.w.s 153C of the Act dated 29.09.2021	132	142
24	Acknowledgement of Form 35 filed along with Grounds of appeal and statement of facts	143	157
25	Order u/s 250 of the Income Tax Act,1961 dated 29.06.2024	158	183
26	Form 36 filed along with grounds of appeal and statement of facts	184	189

7.1 The Id.AR stated that the major finding of the search was that your assessee group was involved in invoicing the old and new bottles with agreed additional rates to M/s. Kals Group of

Companies. After receipt of sale consideration through banking channel from them, the assessee group paid cash to M/s.Kals group for the additional rates by withdrawing cash from bank and after adjusting its commission. The said fact has been accepted by the assessee during the course of search. Accordingly, the assessee group admitted the unaccounted commission income earned in the Return of income filed u/s.153C of the Act, without any deviation from the quantification and deposition at time of search. As per the search findings, the cash are handed over to Kals group directly or to persons as per their instruction.

7.2 The Id.AR further stated that simultaneously an independent search u/s.132 was carried on by the department in the case of M/s.Kals group companies on 09.08.2019, to whom the assessee group supplies empty liquor bottles. During the search in the case of M/s.Kals Group of Companies, certain excel sheets containing details of Interest paid on loans captured under the head "TNJ Mr Nadarajan Interest" and "Madras Interest" and "Pooja expenses" etc., were found and seized. (Pg. No. 49 and 50 of paper book). Deposition of Shri S.Nadessan, JMD of Kals group in the statement recorded

u/s.132(4) on 21.09.2019 about the contents of the excel sheets found as above in their premises:

"Q.13. I am showing you the loose sheet numbers 18-23 seized vide ANN/SRN/SR/S/LS/S dated 09.08.2019 from your office which is situated in a front room at the residence of Shri S Rajasekaran at Old No.16, New No.21, Annavasal Salai, Nedungadu, Karaikal district during the course of search proceedings. Please go through the loose sheets and explain the following contents.

- a) Oduthurai place registration amount of Rs.12,77,650/- mentioned as 'cash' & oduthurai place registration of Rs.3,50,000/- under the head registration expenses mentioned in page no. 19
- b) 'Madras Interest' mentioned in page number 22
- c) Contents under the head 'TNJ Mr.Natarajan Interest' in page 23.

Ans: Sir, I have gone through the above mentioned loose sheets.
"....."

The contents under the head 'TNJ Mr. Natarjan Interest' in page number 23 refers to the interest payments made to Shri V S Natarajan of Thanjavur for the loans taken from V S Natarajan through banking channels, which are same as mentioned in loose sheet numbers 8, 9 and 17 explained in earlier questions.

The contents under the head 'Madras Interest' in page number 22 refers to the interest payments made in Chennai to the loans taken through banking channels or pending outstanding due payment to the vendors. Generally, I have been paid the interest payment through Shri V.S.Natarajan of M/s.Devi Bottle group. However, the complete details will be submitted within a week time."

7.3 The Id.AR further stated that from the above, it can be seen that he had clearly stated that "TNJ Mr.Nadarajan Interest" relates to Interest paid to the assessee and the head "Madras Interest" is not to the assessee. Deposition of Shri V.S.Natarajan in the statement recorded u/s.131 on 25.01.2020

about the contents of the excel sheets found in the search of Kals Group: **(Pg. No 52 of Paper Book).**

Q.No.12: *I am showing you the loose sheets seized from the residential premise of Old No.16, New No.21, Annavasal Salai, Nedungadu, Karaikal district vide ANN/SRN/SR/LS/S dated 10.08.2019 and the electronic devices seized vide ANN/DSG/VSN/ED/S dated 22.09.2019 600004 in the case of M/s.Kals Distilleries Pvt Ltd, M/s.Kals Breweries Pvt Ltd, M/s.Kals Beverages Pvt Ltd, Shri S.Nadesan and Shri S.Vasudevan, which contains interest payments made in cash to you. When confronted Shri S.Nadessan in his sworn statement u/s.132(4) of the Income-tax Act, 1961 dated 21.09.2019 stated that a portion of interest was paid to Natarajan in cash and the part was paid through 'RTGS' for the loans taken from you through banking channels. The cash portion of interest paid in the name of "TNJ Interest" amounting to Rs.1,21,25,000/- for FYs 2013-14 to 2017-18 and in the name of 'Madras Interest' amounting to Rs.1,50,00,000/- for the FYs 2013-14 to 2015-16. Please go through the relevant loose sheets and extracts of the electronic devices and please explain whether you have admitted the interest payments received in cash from the directors of M/s.Kals group for the loans given by you in your books of accounts?*

Ans: *Sir, I have gone through the loose sheets and extracts of the electronic devices shown to me. Sir, I state that we have given loans to persons of Kals group through banking channel which are also reflected in our books of accounts. The interest income received through banking channel has already been offered in respective ITRs. We have also received portion of interest in cash which we will verify and offer to income. The interest paid and written as 'Madras Interest' in the seized materials shown to me does not belong to me."*

7.4 Subsequently, the assessee made a detailed submission dated 31.01.2020 by quantifying additional income based on the various findings of the search before the office of DDIT(Inv), Unit 2(2), in which he had agreed to offer additional interest income received on account of "TNJ Interest" **(Pg. No. 53 of Paper Book).**

7.5 The assessee as per deposition on 25.01.2020, submission made on 31.01.2020, admitted additional interest income of Rs.38,50,000/-; Rs.34,75,000/- and Rs.23,00,000/- on account of TNJ Interest" in the Return of income filed for the A.Y.s 2014-15, 2015-16 and 2016-17 respectively. **(Pg. No.3, 81, 131 in Paper Book)**. During the assessment, reply filed for notice u/s 142(1) by the assessee on the above issue of "TNJ Interest" and "Madras Interest" is available in **page 7 and in page 10 of Paper Book** respectively, which covers the amounts for all the A.Ys.

7.6 The Id.AR stated that when the clear facts are as above, the AO had just added the interest income on account of "Madras Interest" which does not belong to the assessee. This was without any corroborative material or evidence and against the facts. The AO ought to have obtained the details of loans received by M/s.Kals group from S.Nadesan and taxed the same in the hands of correct persons and not your appellant.

7.7 The Id.AR stated that in the order u/s.250, the Id.CIT(A) without any corroborative evidences upheld the addition by the

AO only based on assumptions and hence the additions to be deleted. **(Para 7.2.6, 7.2.7 and 7.2.9).**

Para Ref in Order u/s.250	Page No in Paper book	Gist of observations and assumptions
7.2.6	70	<i>It is noticed that while explaining contents of loose sheet no 23 pertaining to 'TNJ Mr.Nadarajan Interest', Shri Nadesan stated that it pertains to interest payments made to Shri Natarjan with respect to loans taken through banking channel.</i>
7.2.7	70	<i>In the loose sheet 22 named "Madras Interest", he stated that it contains interest paid at Chennai w.r.t. loans taken through banking channel. However, he has not specified name of person from whom such loans are taken through banking channel wrt loose sheet 22. The very fact that he omitted to specify name of person from whom loans are taken indicates that he is referring to Shri Natarajan. Had it been different person, he would have specified name/s or person/s.</i>
7.2.9	71	<i>But loose sheet 22 mentioned names of different persons who made interest payment at Madras on behalf of Shri Nadesan like Balu, SR, SV, Moorthy, etc., Name of the appellant is conspicuously absent from the above loose sheet.</i> <i>Note: The above excel being seized materials was maintained with facts prior to search by Kals group and hence there is no question of any conspicuous omission.</i>

7.8 In light of the above arguments, the Ld.AR prayed for setting aside the order of the Id.CIT(A) and delete the impugned additions.

8. Per contra, the Ld.DR relied on the order of the Id.CIT(A) and that of the AO and prayed for upholding the same by dismissing the appeal of the assessee.

9. We have heard the rival contentions and gone through the orders of the lower authorities and perused the materials available on record. It is admitted fact that the assessee group during the search has accepted the fact that they had involved in invoicing the old and new bottles with agreed additional rates to M/s. Kals Group of Companies. After receipt of sale consideration through banking channel from them, the assessee group paid cash to M/s.Kals group for the additional rates by withdrawing cash from bank and after adjusting its commission. Accordingly, the assessee admitted the unaccounted commission income earned and declared in the Return of income filed u/s.153C of the Act, without any deviation from the quantification and deposition at time of search.

9.1 We note that during the search in the case of M/s.Kals Group of Companies, certain excel sheets containing details of Interest paid on loans captured under the head "TNJ Mr Nadarajan Interest" and "Madras Interest" and "Pooja expenses" etc., were found and seized. (Pg. No. 49 and 50 of paper book). At the time of deposition of Shri S.Nadessan, JMD of Kals group in the statement recorded u/s.132(4) on 21.09.2019 about the contents of the excel sheets with regard

to the 'Madras Interest', (Paper book Page No.51) he has clearly stated that these amounts are paid towards loans taken through the banking channels and has been recorded in the books of accounts as detailed below:

"Q.13. *I am showing you the loose sheet numbers 18-23 seized vide ANN/SRN/SR/S/LS/S dated 09.08.2019 from your office which is situated in a front room at the residence of Shri S Rajasekaran at Old No.16, New No.21, Annavasal Salai, Nedungadu, Karaikal district during the course of search proceedings. Please go through the loose sheets and explain the following contents.*

- a) *Oduthurai place registration amount of Rs.12,77,650/- mentioned as 'cash' & oduthurai place registration of Rs.3,50,000/- under the head registration expenses mentioned in page no. 19*
- b) 'Madras Interest' mentioned in page number 22**
- c) *Contents under the head 'TNJ Mr.Natarajan Interest' in page 23.*

Ans: *Sir, I have gone through the above mentioned loose sheets.
"....."*

The contents under the head 'TNJ Mr. Natarjan Interest' in page number 23 refers to the interest payments made to Shri V S Natarajan of Thanjavur for the loans taken from V S Natarajan through banking channels, which are same as mentioned in loose sheet numbers 8, 9 and 17 explained in earlier questions.

The contents under the head 'Madras Interest' in page number 22 refers to the interest payments made in Chennai to the loans taken through banking channels or pending outstanding due payment to the vendors. Generally, I have been paid the interest payment through Shri V.S.Natarajan of M/s.Devi Bottle group. However, the complete details will be submitted within a week time."

9.2 Further, we have observed that the assessee in his sworn statement made on 25.01.2020 recorded u/s.131 of the Act (Paper book Page No.52) has clearly stated that the actual interest received have already been recorded in the

books and offered to tax in the respective assessment years and the "Madras Interest" referred in the seized material does not belong to him as detailed below:

"Q.No.12: *I am showing you the loose sheets seized from the residential premise of Old No.16, New No.21, Annavasal Salai, Nedungadu, Karaikal district vide ANN/SRN/SR/LS/S dated 10.08.2019 and the electronic devices seized vide ANN/DSG/VSN/ED/S dated 22.09.2019 600004 in the case of M/s.Kals Distilleries Pvt Ltd, M/s.Kals Breweries Pvt Ltd, M/s.Kals Beverages Pvt Ltd, Shri S.Nadesan and Shri S.Vasudevan, which contains interest payments made in cash to you. When confronted Shri S.Nadessan in his sworn statement u/s.132(4) of the Income-tax Act, 1961 dated 21.09.2019 stated that a portion of interest was paid to Natarajan in cash and the part was paid through 'RTGS' for the loans taken from you through banking channels. The cash portion of interest paid in the name of "TNJ Interest" amounting to Rs.1,21,25,000/- for FYs 2013-14 to 2017-18 and **in the name of 'Madras Interest' amounting to Rs.1,50,00,000/- for the FYs 2013-14 to 2015-16.** Please go through the relevant loose sheets and extracts of the electronic devices and please explain whether you have admitted the interest payments received in cash from the directors of M/s.Kals group for the loans given by you in your books of accounts?*

Ans: *Sir, I have gone through the loose sheets and extracts of the electronic devices shown to me. Sir, I state that we have given loans to persons of Kals group through banking channel which are also reflected in our books of accounts. The interest income received through banking channel has already been offered in respective ITRs. We have also received portion of interest in cash which we will verify and offer to income. **The interest paid and written as 'Madras Interest' in the seized materials shown to me does not belong to me.***

9.3 The assessee has also filed the details of interest income collected for the A.Y. 2014-15 – Rs.45,50,000/-; 2015-16 – Rs.34,25,000/- and 2016-17 – Rs.17,25,000/- from the Kals group and offered to tax for the respective assessment years on 31.01.2020 (Paper book Page No.53).

Therefore, on perusal of these documents we are of the view that the "madras interest" mentioned in the loose sheet does not belong to the assessee. In this respect to bring into tax the same in the hands of the assessee, the AO has not found any other evidence / documents to prove that these payments made by the Kals group to the assessee, which has not been offered to tax.

9.4 Further, we also taken note of the returns filed by the assessee u/s.153C of the Act, wherein the assessee has already offered the amounts which has been accepted during the search operations.

9.5 In the present facts and circumstances of the case, we are of the considered view that the AO has erred in making the addition of 'Madras interest' in the hands of the assessee without any evidence and hence we are inclined set aside the order of the Id.CIT(A) and direct the AO to delete the additions made of Rs.66,50,000/- by allowing the grounds of appeal filed by the assessee.

10. In the result the appeal of the assessee is allowed.

2260 & 2261/Chny/2024 for the A.Y.2015-16 & 2016-17:

11. Since, the facts and issues raised in A.Y.2015-16 and 2016-17 are identical to the facts and issues raised in A.Y.2014-15 vide Appeal ITA No.2259/Chny/2024, the reasons given by us in AY 2014-15 in the above mentioned paras are equally applicable to the issues raised in these two appeals of the assessee. Thus, grounds raised in AYs 2015-16 & 2016-17 are allowed.

12. In the result, all the three appeals of the assessee for the A.Y. 2014-15, 2015-16 and 2016-17 are allowed.

Order pronounced in the court on 18th February, 2025 at Chennai.

Sd/-
(एस एस विश्वनेत्र रवि)
(S.S. VISWANETHRA RAVI)
न्यायिक सदस्य/**Judicial Member**

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखा सदस्य/**Accountant Member**

चेन्नई/Chennai,
दिनांक/Dated, the 18th February, 2025

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT - Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF