

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH, CHENNAI**

श्री एबी टी वर्की, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के  
समक्ष

**BEFORE SHRI ABY T VARKEY, HON'BLE JUDICIAL MEMBER AND  
SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 27/Chny/2025

निर्धारण वर्ष / Assessment Year: 2017-18

Subba Reddiar Rajendran,  
No.233, Kalugumalai Road,  
Thiruveadam,  
Thirunelveli – 627 719.

**[PAN: ABMPR-4211-M ]**

v. Assistant Commissioner of  
Income Tax,  
Circle -1,  
Tirunelveli.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Mr. T. Vasudevan, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Ms. Anitha, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 14.02.2025

घोषणा की तारीख/Date of Pronouncement

: 07.03.2025

**आदेश /O R D E R**

**PER S.R.RAGHUNATHA, ACCOUNTANT MEMBER:**

This appeal by the assessee is filed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2017-18, dated 16.12.2024.

2. The assessee has raised following grounds of appeal:

*1. The impugned order is illegal, opposed to the facts, contrary to law, against the principles of natural justice and without application of mind and therefore liable to be quashed.*

*2. The learned CIT (Appeals) erred in confirming the addition of Rs.1,51,82,506/- towards increase in the capital account despite the fact that the assessee submitted reasonable and acceptable explanation for the increase in the capital account.*

*3. The learned CIT (Appeals) failed to note that the capital account balance for Assessment Year 2014-15 was in respect of both the medical profession and the crusher unit business whereas the capital account balance for Assessment Years 2015-16 and 2016-17 did not include capital account balance relating to the crusher unit business as he opted for presumptive taxation under section 44AD.*

*4. The learned CIT (Appeals) again failed to note that the capital account balance for Assessment Year 2017-18 included the capital account balance relating to the crusher unit business as he opted out of presumptive taxation and therefore there was increase in the capital account.*

*5. The learned CIT (Appeals) ought to have seen that the assessee admitted income under section 44AD for Assessment Year 2015-16 even though there was loss as per books of accounts.*

*6. The learned CIT (Appeals) failed to note that if the income of the crusher unit for assessment years 2015-16 and 2016-17 as per books of accounts is taken into account, there is no unexplained increase in the capital account.*

*7. The learned CIT (Appeals) failed to consider the explanation submitted by the assessee for increase in the capital account balance in the correct perspective.*

*8. The appellant prays for leave to add, alter, amend or modify any or all the grounds at any time before or at the time of hearing.*

3. The assessee is an individual engaged in medical profession and has business of running a stone crusher unit. For the relevant Assessment Year, the assessee filed his return of income on 28.03.2018 admitting total income of Rs.84,17,120/-. The assessing officer selected the case for limited scrutiny for the purpose of examining the accretion to the capital when compared to the last year. In the course of the assessment proceedings, the assessing officer noticed that the capital increased from Rs.1,06,33,904/- in the last year to Rs.3,17,59,864/- resulting in an increase of Rs.2,11,25,960/- but the net profit as profit and loss account was Rs.59,43,454/- only and therefore required the assessee to reconcile the increase in the capital account. The assessee explained that he opted for presumptive taxation under section 44AD in respect of crusher unit business for assessment years 2015-16 and 2016-17 and therefore the capital account relating to the crusher unit business could not be uploaded in the return. It was explained that the assessee maintained regular books of accounts up to Assessment Year 2014-15

and the capital account balance was Rs.2,58,10,603/- (as on 31-03-2014) in respect of both the medical profession and crusher unit business but the same was reduced to Rs.76,20,236/- for assessment year 2015-16 (as on 31.03.2015) only in respect of medical profession as mentioned by the assessing officer himself in the impugned order. The reason for the above decrease in the capital account was that the capital account in respect of crusher unit business was not included for assessment year 2015-16. The assessee explained that he opted out of presumptive taxation under section 44AD for Assessment Year 2017-18 and therefore capital account in respect of the crusher unit was included in this year as the income as per the books of accounts in the crusher unit for assessment years 2015-16 and 2016-17 are to be included for working out the capital account balance for Assessment Year 2017-18 (as on 31-03-2017). However, the AO did not consider the reply of the assessee and added the increase in the capital account after reducing the current year profit amounting to Rs.1,51,82,506/- and brought to tax u/s.69 of the Act as unexplained investment by passing an order u/s.143(3)

of the Act on 25.12.2019. The assessee contested the AO's order before the learned CIT(A), NFAC, Delhi.

4. The Id.CIT(A) dismissed the appeal by passing an order dated 16.12.2024 on the ground that the assessee has failed to submit reconciliation in increase in the capital account balance both before the AO and the Id. CIT(A). The assessee challenged the Id. CIT(A)'s order before the us.

5. The Id.AR for the assessee stated that the assessee has been regularly filing his income tax returns. Since, the assessee is having both income from business as well as profession as a doctor, he had opted to pay tax u/s.44AD in respect of the income from business for the A.Ys.2015-16 and 2016-17. Therefore, the capital account balance held in the business as on 31.03.2014 of Rs.1,92,02,091/- had not been considered and prepared the capital account of profession as detailed below:

<i>Closing capital balance as on 31.03.2014 of profession</i>	<i>66,08,513/-</i>
<i>Add: Profit for the year 2014-15</i>	<i>14,76,686/-</i>
<i>Other Credits</i>	<i>1,708/-</i>
<i>God's account</i>	<i>382/-</i>
<b>Total</b>	<b>80,87,288/-</b>
<i>Less: Drawings</i>	<i>4,67,052/-</i>
<i>Closing capital balance as on 31.03.2015 of profession</i>	<b>76,20,263/-</b>

Therefore, it is evident that the details of capital account balance uploaded in the return of income is in respect of the profession only by leaving the capital balance of Rs.1,70,56,005/- as on 31.03.2015, since the income from business has been declared u/s.44AD of the Act for the A.Y.2015-16. Similarly, the Id.AR took us through the financials and capital account balances shown in the A.Y.2016-17, wherein the capital account balance as on 31.03.2016 of the profession shown as Rs.1,06,33,903/- by excluding the capital account balance of the business as on 31.03.2016 of Rs.1,71,61,283/-.

6. Further, the Id. AR stated that the assessee filed his return of income for the impugned A.Y.2017-18 by including both the business and professional income under the regular scheme without opting for presumptive taxes for business income. Thereby, the assessee considered both the capital balances held as on 31.03.2016 of Rs.1,06,33,903/- of profession and Rs.1,71,61,283/- of business and treated as opening capital balance as on 01.04.2016 and arrived the closing balance as on 31.03.2017 as detailed below:

<b>Particulars</b>	<b>Profession</b>	<b>Business</b>
<i>Closing capital balance as on 31.03.2016</i>	<i>1,06,33,903/-</i>	<i>1,71,61,283/-</i>
<i>Add: Profit for the Fin.year 2016-17</i>	<i>13,35,371/-</i>	<i>46,08,084/-</i>
<i>Other Credits</i>	<i>8,913/-</i>	<i>0/-</i>
<i>God's account</i>	<i>12/-</i>	<i>12/-</i>
<b>Total</b>	<b>1,19,78,200/-</b>	<b>2,17,69,380/-</b>
<i>Less: Drawings</i>	<i>6,83,364/-</i>	<i>13,04,351/-</i>
<i>Closing capital balance as on 31.03.2017</i>	<b>1,12,94,836/-</b>	<b>2,04,65,029/-</b>

Therefore, the closing capital balance as on 31.03.2017 of the assessee was Rs.3,17,59,865/- considering the capital of both the profession and business. In support of the above the assessee filed paper book-1 of 12 pages consisting of the following details:

- Statement of capital account of the assessee in business as well as profession for the A.Y. 2014-15 to 2017-18
- Capital ledger account of both business & profession for the A.Y. 2014-15 to 2017-18
- Written submission filed before the AO and CIT(A), explaining the above details of capital account.

7. Before us, the Id.AR also filed another paper book-2 of 21 pages consisting of the following details:

- Computation of total income showing the details of both business and professional income declared by the assessee for the A.Y. 2014-15 to 2017-18

- Tax audit report in Form 3CB & 3CD for the A.Y.2017-18, to show that the assessee has declared his business income without opting for Section 44AD.

8. In light of the above submissions the Id.AR stated that the AO and that of Id.CIT(A) have erred in making the addition of Rs.1,51,82,506/- as unexplained investment on account of the difference identified in the capital account opening and closing balances as on 31.03.2016 and 01.04.2016 from the return of income filed by the assessee and prayed for deleting the same.

9. Per contra, the Id.DR supported the orders of lower authorities and stated that the returns are filed by the assessee himself and the figures of closing capital account balances as on 31.03.2016 (A.Y.2016-17) and also the opening capital balance as on 01.04.2016 (A.Y.2017-18) were filled in the respective returns of income showing the entirely different figures which was having a difference of Rs.1,51,82,506/- after considering the income of the impugned assessment year and hence prayed for confirming the same.

10. We have heard both the parties, perused materials available on record and gone through orders of the authorities below along

with the paper book filed. Admittedly, the assessee has filed his return of income for the impugned assessment year 2017-18 by declaring income from business as well as profession. The Books of accounts are audited u/s.44AB of the Act and assessee has filed its audit report in Form 3CB & 3CD duly certified by CA along with the return of income. We note that the assessee has shown a net profit under the head business (Gomathi Stone Metal works) to the tune of Rs.46,08,083/- (after adjustment of depreciation income shown in computation was Rs.74,31,750/-) and Profession (Padma Clinic) of Rs.13,35,371/- (Paper book – 2 page No.9 to 11).

11. Further, we have observed that the assessee has filed his return of income for the A.Y. 2014-15 without opting for presumptive taxation u/s.44AD of the Act for declaring business income and computed the total income along with the professional income in the normal taxation. Thereby the assessee has shown the capital balance as on 31.03.2014 by combining both business as well as profession. However, for the A.Y. 2015-16 & 2016-17 the assessee has opted for declaring his business income under presumptive taxation u/s.44AD of the Act and hence shown the capital account balance for these two years only the capital account of the profession in the return of income filed. It is pertinent to note that the assessee has filed his return of income for the impugned

A.Y. 2017-18 by getting his books of accounts audited u/s.44AB of the Act and hence the combined capital account balances of both the business and profession have been considered and arrived at the closing capital balance of Rs.3,17,59,864/-. In view of the considering the return of income filed by the assessee from the A.Y.2014-15 to A.Y. 2017-18, the capital account balance arrived is given below taking into account the closing balance as declared by the assessee as on 31.03.2014 (A.Y.2014-15):

<b>Particulars</b>	<b>Profession</b>	<b>Business</b>
<i>Closing capital balance as on 31.03.2014</i>	66,08,513/-	1,92,02,091/-
<i>Add: Profit/(loss) for the Fin.year 2014-15</i>	14,76,686/-	(23,31,036/-)
<i>Other Credits</i>	1,708/-	1,84,950/-
<i>God's account</i>	382/-	0/-
<b>Total</b>	<b>80,87,288/-</b>	<b>1,70,56,005/-</b>
<i>Less: Drawings</i>	4,67,052/-	0/-
<i>Closing capital balance as on 31.03.2015</i>	<b>76,20,263/-</b>	<b>1,70,56,005/-</b>

Therefore the closing capital balance of both business and profession as on 31.03.2015 was Rs.2,46,76,241/-

<b>Particulars</b>	<b>Profession</b>	<b>Business</b>
<i>Closing capital balance as on 31.03.2015</i>	<b>76,20,263/-</b>	<b>1,70,56,005/-</b>
<i>Add: Profit for the Fin.year 2015-16</i>	13,30,987/-	10,37,996/-
<i>Other Credits</i>	9,473/-	0/-
<i>Profit transferred from Gomathi Stones</i>	29,70,068/-	0/-
<i>God's account</i>	12/-	272/-
<b>Total</b>	<b>1,19,30,776/-</b>	<b>1,80,94,273/-</b>
<i>Less: Drawings</i>	12,96,873/-	9,32,990/-
<i>Closing capital balance as</i>	<b>1,06,33,903/-</b>	<b>1,71,61,283/-</b>

on 31.03.2016		
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The closing capital balance of both business and profession as on 31.03.2016 was Rs.2,77,95,187/-. However, as seen in the above table during the year the assessee has added Rs.29,70,068/- to the capital account of the profession as transferred from Gomathi Stones, but the same has not been reduced from the capital account of the business in the same period. Hence, the same is to be treated as unexplained credit of investment.

<b>Particulars</b>	<b>Profession</b>	<b>Business</b>
<i>Closing capital balance as on 31.03.2016</i>	1,06,33,903/-	1,71,61,283/-
<i>Add: Profit for the Fin.year 2016-17</i>	13,35,371/-	46,08,084/-
<i>Other Credits</i>	8,913/-	0/-
<i>God's account</i>	12/-	12/-
<b>Total</b>	<b>1,19,78,200/-</b>	<b>2,17,69,380/-</b>
<i>Less: Drawings</i>	6,83,364/-	13,04,351/-
<i>Closing capital balance as on 31.03.2017</i>	<b>1,12,94,836/-</b>	<b>2,04,65,029/-</b>

The closing capital balance of both business and profession as on 31.03.2017 was Rs.3,17,59,865/-.

12. In light of the above factual matrix of the case, we are of the considered view that the assessee has filed a reconciliation of capital account difference to the tune of Rs.1,22,12,439/- and hence we deem fit to delete the same. However, an amount of Rs.29,70,068/- has been added to the capital account of the profession as on

31.03.2016 in the reconciliation statement without reducing the same from the business capital account and hence we are inclined sustain the addition as unexplained investment in the capital account. Accordingly, we direct the AO to delete an amount of Rs.1,22,12,439/- by sustaining addition of Rs.29,70,068/-.

13. In the result the appeal of the assessee is partly allowed.

Order pronounced in the open court on 7<sup>th</sup>, March, 2025 at Chennai.

Sd/-

(एबी टी वर्की )  
**(ABY T VARKEY)**

न्यायिक सदस्य/Judicial Member

Sd/-

(एस. आर. रघुनाथा)  
**(S. R. RAGHUNATHA)**

लेखासदस्य/Accountant Member

चेन्नई/Chennai, दिनांक/Dated, the 7<sup>th</sup>, March, 2025

**JPV/-**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT – Madurai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF