

**आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI**  
**श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री अमितभ शुक्ल, लेखा सदस्यके समक्ष**  
**BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER**  
**AND SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपीलसं./I.T.A.Nos.2095 to 2099/Chny/2024  
(निर्धारण वर्ष / Assessment Years:2017-18 to 2021-22)

<b>Shri Gnanasekaran,</b> 21, Thirupathi Amman Koil Street, <b>Cuddalore-607 002.</b>	Vs	<b>ACIT,</b> Central Circle-1(1), Chennai.
PAN :ACVPG-5138-J		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mr. P.M. Kathir, Advocate
प्रत्यर्थीकीओरसे/Respondent by	:	Nr. Shivanand K.Kalakeri, CIT

सुनवाईकीतारीख/Date of hearing	:	26.03.2025
घोषणाकीतारीख /Date of Pronouncement	:	04.04.2025

**आदेश / ORDER**

**PER BENCH:**

The captioned appeals are filed by the assessee are directed against the orders of the Ld. Commissioner of Income Tax (Appeals),Chennai-18, [CIT(A)] all dated 29.06.2024 for Assessment Years 2017-18, 2018-19, 2019-20, 2020-21 & 2021-22.

2. Brief facts are as under:-

The assessee was subjected to search u/s.132 of the Income Tax Act, 1961 on 18.03.2021 and during the course of search, various incriminating material including promissory notes, mortgage deed were found and seized. The proceedings u/s/153A of the Act was initiated for AYs 2015-16 to 2020-21 and proceedings u/s.143(2) were initiated for AY 2021-22. The assessments were completed by making additions on account of unexplained source of loans advanced and the interest income as per the seized documents. The summaries of additions are as under:-

AY	Original return of income	dated	Returned income u/s.153A on 23.02.2022	Additions made	Nature of additions	Assessed income
2017-18	Not filed	NA	531850	1800000	u/s.69	2430850
				99000	Interest income u/s.56	
2018-19	773170	31.08.2018	820170	1200000	u/s. 69	2185170
				165000	interest income u/s.56	
2019-20	451080	17.07.2019	676080	360000	interest income u/s.56	1036080
2020-21	1054160	09.01.2021	1054160	360000	interest income u/s.56	1414160
2021-22	906020	23.02.2022	NA	360000	interest income u/s.56	1266020

3. Aggrieved by the additions made, the assessee preferred appeals before the CIT(A). The assessee filed similar grounds of appeal for all AYs except for amounts involved. The addition on account of unaccounted investment is in AYs 2017-18 and 2018-19 and addition on interest income is common for all the years.

4. For AYs 2017-18 & 2018-19, the assessee has given loan of Rs.18,00,000/- in cash in the FY relevant to AY 2017-18 and Rs. 12,00,000- in the FY relevant to AY 2018-19 to one Shri Seshadri as per the seized materials referred to by the Assessing Officer. The assessee has submitted that the sources for these loans of Rs. 18 lakhs was from his pension savings and hand loan borrowing from his friends and relatives. The source of Rs. 12 lakhs loan extended was claimed to be Loan received from Shri. Muthukumaran of Cuddalore for which no evidence was furnished by the assessee. As per the seized documents and the statement of the appellant, he has advanced an amount of Rs. 18 lakhs in cash to one Seshadri during the FY 2016-17 i.e AY 2017-18 and Rs. 12 lakhs during AY 2018-19 and he was unable to explain the sources of the same

during the search proceedings. Even during the assessment proceedings, he was unable to explain the sources of the same. Hence the loan amounts of Rs.18,00,000/- and Rs. 12,00,000/- were treated as unexplained investment u/s 69 for the AYs 2017-18 and 2018-19 respectively.

5. Further, it was gathered from the loose sheets seized vide Annexure ANN/PVD/CG/LS/S that interest was charged at 1% per month on the loan given. But the assessee has not shown the interest income at 1% per month in the returns and hence the AO calculated the interest income at 1% and added the difference between the interest income @1% and already offered in the return for the AYs 2017 18 and 2018-19 u/s 56 of the Act. For AYs 2019-20 to 2021-22, the assessee has given loan of Rs.30,00,000/- (Rs.18,00,000 (AY 2017-18 + Rs.12,00,000 (AY 2018-19) to one Shri Seshadri as stated above. The assessee has not produced any evidence to show that interest income has been offered to tax in the return of income. The loan/credit to Shri Seshadri was a standalone transaction and nit his regular business activity and hence, interest @ 1% on Rs.3000000/- is treated as income under other sources u/s.56 of the Act.

6. Aggrieved assessee challenged the order of assessment u/s.153A before the CIT(A), who rejected the contentions of the assessee and upheld the orders of AO by holding as under:-

*“6.4.10 : In fact the appellant has shown business income under presumptive taxation for AYs 2017-18 and 2018-19 at the rate of 6% on the turnover. He has separately shown the interest income from Mr. Seshadri under the head income from other sources. It is acknowledgment by the appellant that his business activities and money lending*

*activity to Mr. Seshadri is separate and are not mixed. In this situation, the appellant is not justified in claiming that interest income is already reflected in the business income reported in return of income. Further the appellant is claiming that he has reflected the real estate activity in HUF status, but in his submission to AO he has claimed that he is doing real estate activities both in individual and HUF status. Hence the submission of the appellant that he is doing real estate activities in HUF status only is rejected.*

*6.4.11: On illegal addition of unexplained investment, the following inferences are drawn:*

*(a) The appellant was given proper opportunity to provide the source of loan advanced and is acknowledged by the appellant in his submission at para 7. The AO had also given show cause, regarding the same. The appellant is merely claiming that the source of Rs. 18 lakhs is savings from pension and hand loans but has not provided any evidences to substantiate the same. The pension is reflected in his bank account and his bank account and his pension for AY 2017-18 is Rs. 2,78,000/-. It is the duty of the of unexplained appellant to explain the sources not provided any supporting evidences Sources advances which are 7 times his times his annual pension. Other than his claim, he has not provided any supporting evidences.*

*(b) The amount of Rs. 12 lakhs advanced during AY 2018-19 is claimed to have received from One R Muthukumaran. Other than this claim, the appellant has not produced any evidence to show that he has borrowed from Muthukumaran or it his unaccounted income which is returned by Muthukumaran. The appellant has maintained promissory notes for advances to Mr. Seshadri but has not maintained the same for borrowals from Muthukumaren. Further the confirmation from Muthukumaran was not also not produced. In absence of the same, it is clear that the appellant has no evidence to show that he has actually borrowed the same from Muthukumaran.*

*(c) As held by courts in many decisions, the appellant has to discharge his onus by providing complete details of the*

*loans and advances received including Mentivity, creditworthiness and genuineness of the loans received. As the appellant has failed to discharge his onus, this submission of the appellant is without merit.*

*(d) Further the appellant claims that he has disclosed the loans advanced in ROI filed from AY 2019-20 and the advance of loan to Mr. Seshadri was already disclosed and not found during the course of search. He also claimed that there is no incriminating material found during search and relied upon the decision of the Supreme Court in the case of PCIT vs Abhisar Buildwell Pvt Ltd. 454 ITR 212 (2023). This claim of the appellant is without merit. As discussed earlier, the search on the appellant led to seizure of incriminating documents which is not disputed by the appellant. The appellant is also claiming that there was disclosure in returns filed from AY 2019-20 onwards. If this was the fact, then there was no need for the appellant to offer additional Income in the return of income filed in response to notice u/s 153A. The appellant in his submission earlier has referred to this aspect of additional income offered. Hence this submission of the appellant is without merit.*

*(e) In the returns of income filed for AY 2019-20 onwards, the column "Loans and Advances" shows Nil. Hence the claim that the loans were disclosed is not borne from records. Further the claim that he has disclosed the amounts in balance-sheet is an afterthought after the search of the appellant. The search took place on 18th March 2021 and he has claimed during search that he has not maintained books of account and hence this claim that he has disclosed investments in return of income is an afterthought and without any basis.*

*Hence this submission is rejected.*

*6.4.12 : On illegal addition of interest income, the following are my observations and inferences:-*

*(a) The appellant claims that he has already declared interest received from Mr. Seshadri in the returns of income and has offered additional income for AYs 2018-19 and*

*2019-20 in respect of the same. For other years, the appellant claims that he has declared the same under the head business income and offered to taxation.*

*(b) As per the seized documents, the appellant had lent the loan at the rate of 1% of amount advanced and this point is not in dispute. Hence the appellant has to declare the interest at the rate of 1% in the return of income.*

*(c) During the assessment proceedings, for the AY 2017-18 and 2018-19, the interest offered under head income from other sources in the return of income As the interest disclosed was less than 1%, the AO has added the difference in interest to the returned income. The addition is based on seized documents*

*(d) In response to show-cause for AYs 2019-20 to 2021-22, the appellant has claimed that he has already disclosed the interest under the head income from business and profession. However, the claim was not supported by adequate documentation or evidences. In the return, the nature of receipt is shown as sale of services. The claim that interest is disclosed is not supported by evidences. The AO has mentioned clearly that no evidences were provided in support of his claim. Further his regular activity was not money lending as discussed earlier and hence the AO added the interest income at the rate of 1% on the amount advanced to Mr. Seshadri for AYs 2019-20 to 2021-22.*

*(e) Further the appellant submits that he is only carrying out money lending activities. No evidences exist to show that he is registered as a money lender nor any business registration exists to that effect. This claim is an afterthought and is without basis.*

*(f) Further the appellant has not submitted any evidences before the undersigned to show that he has disclosed the interest income under the head business and profession. Hence this submission is rejected.*

*In view of the above discussion and in absence of evidences to prove the sources of amounts advanced and correct interest offered in ROI, the additions for all AYS are upheld. The grounds of appeal Nos. 6 to 11 are dismissed."*

7. Aggrieved by the CIT(A) order, now the assessee is in appeals before us.

8. The Id. counsel for the assessee filed paper book containing pages 1 to 25 wherein from pages 17 to 25 are additional evidences. The Id.counsel contended that assessee had already offered the interest received from Mr. Seshadri to tax in his Return of Income filed for each of the years. Mr. Seshadri had not paid the appellant the promised interest at 1% per month but paid only a lesser amount as interest. The assessee also did not urge Mr. Seshadri to pay the promised interest as he was his friend of many years. The actual interest received from Mr. Seshadri for various years is as follows:

S.No	A.Y	Actual amount received Rs.
A	2017-18	99,000
B	2018-19	67,000
C	2019-20	4,00,800
D	2020-21	4,95,000
E	2021-22	5,15,600

However, so as to buy peace with the Department, the assessee offered additional income, being interest received from Mr. Seshadri in his Return of Income filed in response to notice u/s.153A of the Act, details of which are as follows:

S.No	A.Y	Additional income offered Rs.
A	2018-19	87,000
B	2019-20	2,25,000

During the assessment proceedings, the AO did not take cognizance of the Returns of Income filed by the assessee in response to notice u/s. 153A of the Act. No notice u/s.143(2) of the Act was issued for any of the years. The AO directed the assessee to provide details of source for advancing loans of Rs 18,00,000/- and Rs 12,00,000/-. The assessee submitted that loan of Rs.18,00,000/- was advanced in cash from his pension savings and hand loans from relatives and friends. The loan of Rs.12,00,000/- was advanced to Mr. Seshadri via cheque bearing no.454169 from assessee's Syndicate Bank Alc. The source for the same was Rs.12,60,000/- received from Mr.R.Muthukumaran on 16.08.2017 in the assessee's Syndicate Bank Account.

9. Per contra, the Ld.CIT DR, Shri Shivanand K.Kalakeri read out the relevant findings of the Ld. CIT(A) and reiterated the same.

10. We have heard the rival submissions of the parties and perused orders of the lower authorities and paper book. Regarding addition unexplained investment of Rs.12,00,000/- for assessment year 2017-18, it is submitted by the ld. counsel for the assessee that it was received from Mr.Muthukumaran on 16.08.2017 in the assessee's Syndicate Bank account which is ascertained from bank statement of the assessee. Further, regarding addition of unexplained investment of Rs.18,00,000/- for AY 2018-19, it is contended by the ld. counsel that it was received from hand loans from wife and relative and pension income. For both additions, the learned counsel referred to additional evidences placed at pages 17 to 25 of paper book. Therefore, in light of above additional evidences, we direct the AO to verify veracity of assessee's

additional documents, and if found true, then delete the addition of Rs.12 Lacs and Rs.18 Lacs for AYs 2017-18 & 2018-19 respectively. In respect to the additions made on account of the interest income u/s 56, we find from the referred chart as under:

S.No	A.Y.	Interest said to have received	Interest actually received
A	2017-18	1,98,000	99,000
B	2018-19	2,52,000	87,000
C	2019-20	3,60,000	4,00,800
D	2020-21	3,60,000	4,95,000
E	2021-22	3,60,000	5,15,600
	Total	15,30,000	15,97,400

We find that the interest actually received and offered to tax is more than the interest said to have been received by the assessee. We also notice that real estate business has been shown by the HUF in its return of income. Therefore, we delete the additions made by the AO in all the assessment years.

11. In the result, appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 4<sup>th</sup> April, 2025

Sd/-  
(अमिताभ शुक्ला)  
( Amitabh Shukla )  
लेखा सदस्य / Accountant Member

Sd/-  
( मनु कुमार गिरि )  
( Manu Kumar Giri )  
न्यायिक सदस्य/ Judicial Member

चेन्नई/Chennai,  
दिनांक/Date: 04.04.2025  
DS

आदेश की प्रतिलिपि अग्रेषित/Copy to:  
1.Appellant  
2.Respondent  
3. आयकर आयुक्त/CIT Chennai/Madurai/Salem  
4. विभागीय प्रतिनिधि/DR  
5. गार्ड फाईल/GF.