

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH: CHENNAI

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री जगदीश, लेखक सदस्य के समक्ष  
BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND  
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.2773 & 2774/Chny/2024  
निर्धारण वर्ष /Assessment Years: 2012-13

Thimmaiya Gopaludu,  
No.#6-100-1, Jeemangalam,  
Bagalur, Krishnagiri – 635103.  
Tamil Nadu  
[PAN: ANIPG 5484B]

The Income Tax Officer,  
Vs. Ward-1,  
Hosur.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri T.S.Lakshmi Venkatraman, FCA  
: Ms. R. Anita, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 30.04.2025

घोषणा की तारीख /Date of Pronouncement

: 08.05.2025

आदेश / ORDER

PER JAGADISH, A.M :

Aforesaid two appeals filed by the assessee for Assessment Years (AYs) 2012-13 arises out of the orders of Learned Commissioner of Income Tax (NFAC), Delhi [hereinafter "CIT(A)"] dated 24.09.2024.

ITA No.2773/Chny/2024:

2. The effective ground of appeal in this appeal of assessee is against the confirmation of an addition of Rs. 29,50,000/- u/s. 69A of

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the Income-tax Act, 1961 (hereinafter "the Act") towards cash deposits in the assessee's bank account.

3. The assessee is a retired Village Administrative Officer (VAO) and had deposited cash of Rs. 29,50,000/- during the Financial Year 2011-12. The A.O had reopened the assessment on the ground that the assessee had not filed return of income and proceeded to make addition on cash deposits of Rs.29,50,000/-. Aggrieved by the addition, the assessee filed an appeal before the Ld. CIT(A). On appeal, the Ld. CIT(A) confirmed the addition for the reason that the assessee has failed to explain the source of cash deposits as past savings.

4. At the outset, the Ld. Authorized Representative (A.R) of the assessee raised legal ground that assessment order was time barred. The Ld AR submitted that the notice u/s. 148 of the Act in this case was issued on 28.03.2019, therefore the assessment ought to have been completed by 31.12.2019 as per section 153(2) of the Act. However, the assessment order was passed on 28.09.2021, therefore the assessment order was barred by limitation. On merits, the Ld. AR has submitted that the assessee retired as a VAO in the year 2010 and the cash deposits represented past savings and retirement

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benefits. A chart showing the details of deposits and withdrawals was filed, indicating that the peak credit was only Rs.16,00,000/-. It was contended that the assessee was therefore required to explain only Rs.16,00,000/-, and the Ld. CIT(A) had erred in confirming the full addition of Rs.29,50,000/-. The Ld AR argued that past saving may be considered as explanation to the source of cash deposits.

5. On the other hand, the Ld. Departmental Representative (DR) has submitted that assessment order was passed within the statutory period. The Ld DR submitted that although the notice u/s. 148 of the Act was issued on 28.03.2019, it was returned unserved and the A.O has subsequently served the notice by way of affixture through the Inspector on 03.10.2019. The Ld. DR produced the report of the Inspector in this regard and argued that the assessment order dated 28.09.2021 was passed within the time limit prescribed u/s. 153(2) of the Act.

6. We have heard the rival submissions, and perused the materials available on record. We note that the A.O has issued notice u/s. 148 of the Act on 28.03.2019, which was returned unserved. The AO then effected service through affixture at the assessee's address as given in the return of income, and subsequently passed the assessment

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order on 28.09.2021. Accordingly, in view of the provisions of Section 153(2) of the Act, read with TOLA Act the assessment order passed is within the prescribed time limit. Therefore, the legal ground raised by the assessee is rejected.

7. The A.O has made addition of Rs.29,50,000/- in the order passed u/s. 144 of the Act on account of cash deposits. The assessee before the Ld. CIT(A) has explained that the deposits were made from past savings, which was not accepted. The assessee before us has submitted summary of cash deposit and withdrawal as under:

<b>Date</b>	<b>Particulars</b>	<b>Withdrawal</b>	<b>Deposit</b>
08.11.2011	Cash deposit		7,00,000
10.11.2011	Cash withdrawal	7,00,000	
15.12.2011	Cash deposit		8,00,000
15.12.2011	Cash deposit		8,00,000
16.12.2011	Cash withdrawal	3,00,000	
19.12.2011	Cash withdrawal	3,00,000	
22.12.2011	Cash withdrawal	7,50,000	
28.12.2011	Cash withdrawal	1,60,000	
06.01.2012	Cash deposit		6,50,000
		22,10,000	29,50,000

8. The AO has made the addition of the entire amount of cash deposits without considering the withdrawals made from the same bank account, which were available for redeposit. We find merit in the submission of the Ld. AR that only the peak credit should have been considered, which comes to Rs.16,00,000/-. The Ld AR has explained the source of the deposit as arising from his past savings and

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retirement benefits received upon retiring as a VAO. We note that the assessee has retired as VAO during the relevant financial year and assessee must have received gratuity, leave encashment, and provident fund benefits ordinarily receivable by a government servant on retirement. However, the assessee has not been able to submit evidence in support of his contention that deposits were out of past saving and retirement benefit. Therefore, it is reasonable to presume that Rs.8,00,000/- could have come from such retirement benefits. Accordingly, we sustain the addition to the extent of Rs.8,00,000/- and delete the balance addition. In view of the above, the appeal filed the by assessee in ITA No.2773/Chny/2024 is partly allowed.

**ITA No.2774/Chny/2024:**

9. In this appeal, the A.O has levied penalty u/s. 271(1)(c) of the Act for concealment of income in respect of addition of Rs. 34,18,011/- made in the assessment order. On appeal, the Ld. CIT(A) has reduced the penalty corresponding to the addition of Rs.29,50,000/-, which had been confirmed in the quantum appeal. The assessee is now in appeal before us against the confirmation of the penalty.

10. At the outset, the Ld. AR has submitted that penalty order is *Void ab-initio*, as the A.O had failed to clearly specify in the notice u/s. 274

of the Act whether the penalty was initiated for concealment of income or for furnishing inaccurate particulars of income. On merits, the Ld. AR has submitted that the penalty should be restricted to the amount of income sustained by the Tribunal.

11. On the other hand, the Ld. DR has submitted that the A.O in para 12 of assessment order had clearly stated that penalty u/s. 271(1)(c) of the Act were initiated for concealment of income. The Ld. DR further pointed out that notice issued u/s. 274 r.w.s 271(1)(c) of the Act, the additional remarks specifically mentioned that the penalty was being initiated for concealment of income.

12. We have heard the rival submissions, and perused the materials available on record. We find that the A.O had initiated penalty proceedings for concealment of income, and this is evident from the assessment order as well as the notice issued u/s. 274 of the Act. Therefore, the arguments of the Ld. AR regarding the specific limbs for which penalty has been initiated is rejected.

13. On merits, in the quantum proceedings, we have already sustained the addition to the extent of Rs.8,00,000/- in respect of cash deposits made in the assessee's bank account during the Financial Year 2011-12. The assessee has not been able to explain the source

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of cash deposit, which represented the concealed income. We therefore upheld the order of Ld CIT(A)/AO to the extent of concealment of Rs.8,00,000/-. Accordingly, we direct the AO to re-compute the penalty u/s.271(1)(c) of the Act on the concealment of income of Rs.8,00,000/-. In view of the above, the appeal filed by the assessee in ITA No.2774/Chny/2024 is partly allowed.

14. In the result, both the appeals filed by the assessee are partly allowed.

*Order pronounced on 08<sup>th</sup> May, 2025.*

**Sd/-**  
**(जॉर्ज जॉर्ज के)**  
**(George George K)**  
**उपअध्यक्ष / Vice President**

**Sd/-**  
**(जगदीश)**  
**(Jagadish)**  
**लेखा सदस्य / Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 08<sup>th</sup> May, 2025.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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