

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

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.: 3267, 3268 & 3272/Chny/2024
निर्धारण वर्ष / Assessment Years: 2012-13, 2013-14 & 2014-15

Shri. Naina Mohamed Seyad Abdul Kareem, Survey No.-338/3, House of Seyad, North By-pass Road, Vannarpettai, Tirunelveli - 627 003.	vs.	The Assistant Commissioner of Income Tax, Central Circle 1, Madurai.
[PAN:AHDPS-2976-D] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA Nos.: 3269, 3270 & 3271/Chny/2024
निर्धारण वर्ष / Assessment Years: 2014-15, 2012-13 & 2013-14

Shri. Naina Mohamed Seyad Nawaz, 110/E/20/7, Seyadu Beedi Company, North By-pass Road, Vannarpettai, Tirunelveli - 627 003.	vs.	The Assistant Commissioner of Income Tax, Central Circle 1, Madurai.
[PAN:AKJPS-9890-F] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA Nos.: 106 to 108/Chny/2025
निर्धारण वर्ष / Assessment Years: 2012-13 to 2014-15

Shri. TES Fathu Rabbani, Survey No.-338/3, House of Seyad, North By-pass Road, Vannarpettai, Tirunelveli - 627 003.	vs.	The Assistant Commissioner of Income Tax, Central Circle 1, Madurai.
[PAN: AAKPB-9683-Q] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA Nos.: 109 to 111/Chny/2025
निर्धारण वर्ष / Assessment Years: 2012-13 to 2014-15

Shri. Kamaludeen Yoosufmeeran, Survey No.-338/3, House of Seyad, North By-pass Road, Vannarpettai, Tirunelveli - 627 003.	vs.	The Assistant Commissioner of Income Tax, Central Circle 1, Madurai.
[PAN: AAWPY-9309-C] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA Nos.: 112 to 114/Chny/2025
निर्धारण वर्ष / Assessment Years: 2012-13 to 2014-15

Shri. Kamaludeen Seyad Abdul Kareem, Survey No.-338/3, House of Seyad, North By-pass Road, Vannarpettai, Tirunelveli - 627 003.	vs.	The Assistant Commissioner of Income Tax, Central Circle 1, Madurai.
[PAN: ATOPS-4885-N] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. B. Ramakrishnan, F.C.A.
प्रत्यर्थी की ओर से/Respondent by : Shri. R. Clement Ramesh Kumar, C.I.T.

सुनवाई की तारीख/Date of Hearing : 02.04.2025
घोषणा की तारीख/Date of Pronouncement : 15.05.2025

आदेश / O R D E R

PER BENCH:

These fifteen appeals filed by the assessee are directed against separate orders of even date 25.10.2024 passed by the Id. Commissioner of Income Tax, (Appeals) -19, Chennai. Since, facts are identical and issues are common, for the sake of convenience, the appeals filed by the separate assessee are being heard together and disposed of by this consolidated order.

2. The assessee has raised the following similar concise grounds of appeal for the assessment years 2012-13 to 2014-15. For the sake of brevity the grounds raised for the A.Y. 2012-13 ITA No.3267/Chny/2024 in the case of Sri. Naina Mohamed Seyadu Abdul Kareem are given below:

1. *The order of the Learned Commissioner of Income Tax (Appeals) is contrary to the law, facts and circumstances of the case.*
2. *For that the Learned Commissioner of Income Tax (Appeals) erred in confirming the addition of Rs.11,79,456/- as 'unaccounted investments' u/s.69 of the Act towards deposits made in M/s.Seyad Cotton Mills Limited ("SCML" in Short) during the relevant previous year.*
3. *For that the Learned Commissioner of Income Tax (Appeals) had erred in making an enhancement of Rs.93,669/- to the above mentioned addition made by relying upon the Order passed by the Hon'ble Income Tax Settlement Commission dated 06.09.2023 u/s.245D(4) of the Act in the case of three Directors of SCML (ie) Shri.F.Sadiq, Shri.T.E.S.Naina Mohammed and Shri.F.Seyad Rabbani.*
4. *Without prejudice to the above, the Learned Commissioner of Income Tax (Appeals) erred in rejecting the alternate plea of the appellant that only the fresh investment made out of the undisclosed income earned during the respective AYs 2012-13 to AY 2014-15 ought to be taxed in the hands of the appellant amounting to Rs.18,56,000/- in AY 2013-14 & Rs.18,40,625/- in AY 2014-15.*

For these grounds and such other grounds that may be adduced before or during the hearing of the appeal, it is prayed that the Hon'ble Tribunal may be pleased to delete the addition made and/or provide such other relief as this Hon'ble Tribunal may deem fit.

3. **The common brief facts are as under:**

A search was conducted in the case of Seyadu group of concerns at Tirunalveli on 28.06.2017, wherein offices and residences of various entities and individuals related to the group were covered in the search operations. Residence of the assessee at A-19, (6/1), 23rd Cross Street, Maharaja Nagar, Tirunalveli, was also covered. Later the case was centralised to Central Circle - 1, Madurai. Notice u/s.153A of the Act was issued to the assessee for various A.Ys. 2012-13 to 2017-18 on 20.11.2018 on the basis of material evidence

gathered. Pursuant to these notices the return of income were filed electronically on 17.12.2018 for all these assessment years. The notices u/s.143(2) of the Act were issued on 11.01.2019.

4. The assessee filed the details and other documents called for were filed from time to time during the assessment proceedings. The assessee also filed objections during assessment proceedings. However, the AO after perusal of the submissions and objections filed by the assessee concluded the assessment by making the following additions and passed orders u/s.143(3) r.w.s.153A of the Act dated 24.12.2019.

Addition made u/s 69 of the Act towards deposits in M/s.Seyad Cotton Mills Limited:

During the course of post search operations in the premises of M/s. Seyad Cotton Mills Ltd ('SCML'), from a Fixed deposit ledger maintained in the accounting application, it was noticed that there was high value deposits made over the period FY 2011-12 to 2013-14. The total amount of fixed deposit received from various beedi rollers as on 31.03.2014 amounted to Rs.4,42,60,000/-. Further, Shri P.K.Meeran Mohideen, DGM (Accounts), was sought to furnish the details of the deposits made. The extract of his sworn statement recorded is provided in the underlying Assessment order. Based on the sworn statements recorded from Shri.P.K.Meeran Mohideen, the AO concluded that the fixed deposits were all made by the Directors of the Seyad group and that the deposits appearing in the name of beedi rollers were nothing but unaccounted money of the directors.

Thereafter, rejecting the submission of the assessee that they had not invested any amounts in SCML in the name of beedi rollers and had not derived any interest from such deposits, by placing reliance on the statement recorded from Shri.P.K.Meeran Mohideen, the AO had made additions in the underlying Assessment Orders passed u/s.143(3) r.w.s. 153A of the Act, on the basis of the respective assessee Directors' shareholding pattern in SCML, as 'unaccounted investments' u/s.69 of the Act in their respective hands for the A.Ys 2012-13 to 2014-15. Aggrieved by such Assessment Orders, the assessee preferred appeals before the CIT(A) - 19, Chennai.

With respect to the subject issue included in the Settlement application filed by three Directors of SCML (i.e.) Shri.F.Sadiq, Shri.T.E.S.Naina Mohammed and Shri.F.Seyad Rabbani, the Income Tax Settlement Commission ("ITSC"), vide its Order dated 06.09.2023 passed u/s.245D(4) of the Act had made an addition of Rs.51,57,500/- each in their hands at Rs.12,73,125/-, Rs. 24,18,750/- and Rs. 14,65,625/- for the AYs 2012-13, 2013-14 & 2014-15 respectively.

5. In this connection, the assessee group filed a rectification application dated 08.12.2023 u/s.245D(6B) of the Act, prima-facie contending that certain facts and details placed before the ITSC has not been considered while making the said addition and then without prejudice to such contention, had prayed for restriction of addition made towards deposits in M/s.Seyad Cotton Mills based on workings furnished. Thereafter, the ITSC, vide Order dated 27.06.2024, had disposed of the said application by rejecting the said rectification on the grounds

that the said issue falls beyond the scope of Section 245D(6B) of the Act and the merits of the case as such had not been adjudicated by them therein.

6. The Ld. CIT(A), vide his orders passed u/s.250 of the Act, had held that the ITSC in its order had settled the subject issue of the assesseees by taxing the entire amount of Rs.4,12,60,000/- at the rate of Rs.51,57,500/- each in the hands of all the eight directors including the three applicants vide its order u/s.245D(4) dated 06.09.2023 and not as per the share holding pattern as assessed by the AO in the case of the assesseees and accordingly had enhanced/restricted the additions in dispute (as per the chart enclosed) to Rs.12,73,125/-, Rs.24,18,750/- and Rs. 14,65,625/- for the AYs 2012-13, 2013-14 & 2014-15 respectively in the assesseees' hands. Aggrieved by the order of the Id.CIT(A), the assessee is in further appeal before us.

7. Before us, the Id.AR submitted that the Id.CIT(A) had merely followed the order passed by the ITSC in the case of the assessee's group with respect to the subject issue, applying the same in respect of the assesseees before him, without independent application of mind and appreciating the fact that the said ITSC order was passed in case of assesseees not before him in appeal in which case he ought to have independently adjudicated the subject issue on its merits.

8. Further, the Id.AR stated that the following facts were placed before the Id.CIT(A) for consideration on the subject issue that had not been considered in the impugned Appellate order passed by him:

- The Assessing Officer had solely relied on the statement of Shri P.K.Meeran Mohideen whereon no explanation was sought from the directors of M/s.Seyad Cotton Mills Ltd. during the course of search or post-search proceedings.

- The assessment was completed u/s.143(3) of the Act in the case of M/s.Seyad Cotton Mills Ltd. for the AYs 2013-14 & 2014-15 without any addition in this regard and further the AO in Assessment Order relating to A.Y.2011-12 assessed u/s.143(3) r.w.s. 263 of the Act, had specifically acknowledged that details of depositors along with confirmation letter were furnished to the AO, that these were duly verified and found to be in order at the time of assessment proceedings and no adverse findings were made by the AO.
- Further, no incriminating evidence was found to show that the funds from the directors were deposited in the name of beedi rollers apart from relying on assumptions and statement of Shri. P.K.Meeran Mohideen who had also admitted that deposits were also made by beedi rollers. He has clearly bifurcated the amount of deposits pertaining to the assesses and their family members and the amount pertaining to beedi rollers vide response to question no.3 of his sworn statement dated 01.08.2017. The relevant extract of the same is as under:

“Q. No.3: Please furnish the details of fixed deposits made by the beedi rollers for the above said period. Also furnish the date and mode of such payments such as by cash/ cheque/ RTGS/ Transfer etc?”

Ans: As I already stated in my earlier reply, out of the total fixed deposits furnished in Annexure-1, only Rs.30,00,000/- belonged to Shri F Seyad Rabbani and his wife. The rest of the above said deposits were made by beedi rollers....”

- It is evident upon perusal of Shri. P K Meeran Mohideen’s sworn statement dated 01.08.2017 in its entirety that he had merely elaborated on the modus operandi of the business functioning and had nowhere stated or admitted that the same pertains to the directors of the company.
- The AO had relied on thirty party letters without providing an opportunity to the assessee to cross-examine the factual veracity of the statement made by the third parties, which are in direct violation of the principles of natural justice. In this regard, the appellant relies upon the following judgements:

Hon'ble Supreme Court in the case of Andaman Timber Industries v. CCE [2015] 62 taxmann.com 3 (SC) (supra) held that

“Once the assessee has disputed the correctness of the statement and wanted to cross examine the witness which was not given by the AO as well as ld. CIT (A), then the orders passed based on such statement are not sustainable in law.”

The Hon'ble Delhi High Court in case of CIT v. Ashwani Gupta, 322 ITR 396 (Delhi) held that

“Thus the Hon'ble High Court has held that once there is a violation of principles of natural justice in as much as seized material is not provided to the assessee nor is cross examination of the person on whose statement the AO relied upon, granted, then, such deficiencies would amount to denial of opportunity and consequently would be fatal to the proceedings.”

The Hon'ble Bombay High Court in the case of H.R. Mehta v. ACIT, 387 ITR 561 (Bombay) held that

“Thus, the denial of opportunity to cross examine was considered by the Hon'ble High Court which goes to the root of the matter and strikes at the very foundation of the assessment and, therefore, renders the assessment order passed by the AO not sustainable.”

9. The AO had concluded that investments were made by the assesseees', merely on basis of genuine/bonafide clerical and inadvertent errors in the deposit forms of beedi rollers which is inevitable in manual filing of forms, by stating that *“no specific date was mentioned in the KYC form for receipt of deposits and no entry was made in the columns 'FOR OFFICE USE'.”*

- a. The additions were made without controverting the above contentions of the assessee.
- b. With respect to the rejection of the Rectification Petition filed before the ITSC relating to the subject issue, the relevant extract was reproduced as under:

“It is observed that the Hon'ble Interim Board has made addition of income pertaining to investment made in the earlier assessment years not covered in the settlement application. It is submitted that the addition of Rs.4.12 crore of deposits includes the deposits made in the prior years of Rs.1.4687 crore reflected as opening balance hereunder and thus the same ought not to be added as income while computing the undisclosed investment made for the subject AYs 2012-13 and 2014-15.

In lakhs

AY	Opening balance	Investment made during the year	Refund	Closing balance	Incremental year wise closing balance added by IBS
A	B	C	D	E=B+C-D	F
2012-13	146.87	46.40	91.42	101.85	101.85
2013-14	101.85	249.30	55.80	295.35	193.50
2014-15	295.35	165.50	18.25	442.6	117.25*
2015-16	442.6	0	442.60	0	
TOTAL					412.60

**Rs. 30 Lakhs pertaining to Shri F.Rabbani is already forming part of his books of account, hence, department has reduced the same from the closing balance of deposits in the AY 2014-15.*

10. The Ld.AR submits that only the fresh investment made out of the undisclosed income earned during the respective AYs 2012-13 to AY 2014-15 ought to be taxed in the hands of the assessee as reflected under:

Particulars		2012-13	2013-14	2014-15	Total
Investment made during the year	A	46,40,000	2,49,30,000	1,65,50,000	4,61,20,000
less: refund received during year	B	-91,42,000	-55,80,000	-18,25,000	-1,65,47,000
Refund available for investment in subsequent year	C=A-B	-45,02,000			
Fresh investment made during the year to be offered as UDI	D=A-B	-	1,48,48,000*	1,47,25,000	2,95,73,000
Applicant's 1/8th share	E=D/8	-	18,56,000	18,40,625	36,96,625

**Rs. 45.02 Lakh is reduced to arrive at the fresh investment for the AY 2013-14, since the excess amount refunded in the previous year is utilized for re-investment in the deposits for the subject year.*

11. Thus, a total addition of only Rs.36.96 lakhs can be made in the hands of the assessee towards deposits in M/s.Seyad Cotton Mills.”

12. Further, it was also submitted that the Board had prima-facie rejected the said rectification on the grounds that the said issue falls beyond the scope of Section 245D(6B) of the Act and the merits of the case as such had not been adjudicated by them, by holding as under :

“....The claim of the applicant that it had an opening balance of Rs.1,46,87,000/- of Fixed Deposits at the beginning of FY 2011-12 neither does directly arise from the record of settlement proceedings nor was a claim which was made before or was examined by the Bench under Section 245D(4) proceedings. The claim is not only a new line of argument but is also not substantiated by documents presented and considered during the 245D(4) proceedings. Thus, the prayer of the applicant is not in the nature of rectification of mistake but amounts to recall of earlier order to introduce new grounds, evidence and arguments. This is beyond the mandate of Section 245D(6B), under which only patent and non-debatable mistakes can be rectified. The powers of rectification do not extend to re-examination of the core decision taken on merits in the earlier order. The Interim Board for Settlement (IBS) cannot recall or revisit its own decision on merit and change its considered opinion within the meaning of provisions of Section 245D(6B) of I.T.Act, 1961. For this proposition, reliance is

placed upon order of Hon'ble Supreme Court in the case of TS Balaram, ITO versus Volkart Brothers 1971, 82 ITR 50 SC. For these reasons, the rectification petition on the above-mentioned issue is not found maintainable and is hereby rejected."
(emphasis supplied)

13. The assesseees' had reiterated their contentions enumerated in the rectification petition filed u/s.245D(6B) of the Act before the ITSC as stated above and considering the detailed submissions, it was humbly prayed to the Id.CIT(A) that the addition, if made, ought to be restricted to Rs.2.95 crores on an overall basis as against Rs.4.13 crores as contended by the revenue, which shall tantamount to Rs.36.97 lakhs in toto in the case of each director, being 1/8th of Rs.2,95,73,000/- pertaining to the 'Fresh investment made during the year to be offered as undisclosed Income at Rs.18,56,000/- for the AY 2013-14 and Rs.18,40,625/- for the AY 2014-15 respectively, as against the respective contentions of the ITSC and that of the AO in the underlying assessment orders.

14. Hence, the Id.AR submitted that the Ld. CIT(A) had merely adopted the order passed by the ITSC and had not considered the assessee's contentious submissions in this regard in enhancing / restricting the impugned addition on the subject issue.

15. Further, the Id.AR submitted that, assuming but not admitting, any additions were to be made pertaining to the subject issue on deposits in SCML, in the absence of any substantive evidence to prove that the same was related to the undisclosed investments of the assesseees', it ought to have been made in the hands of SCML which had not been the case as is evident from the respective assessment orders.

16. Based on the above, the Id.AR prayed that the impugned additions be deleted or alternatively, be restricted to Rs. 18,56,000/- in AY 2013-14 & Rs. 18,40,625/- in A.Y. 2014-15.

17. Per contra the Id.DR relied on the orders of the lower authorities and hence prayed for confirming the order of Id.CIT(A).

18. We have heard the rival contentions perused material available on record and gone through the orders of lower authorities along with the judicial precedents relied on by both the parties. It is not disputed that a search was conducted in the case of Seyadu group of concerns at Tirunalveli on 28.06.2017, wherein offices and residences of various entities and individuals related to the group were covered in the search operations along with the residence of the assessee at Tirunalveli. Subsequently the assessee filed their return of income electronically on 17.12.2018 for all these assessment years. During the course of assessment proceedings, the assessee submitted the details called for and objections for the issues raised from time to time. However, the AO after perusal of the submissions and objections filed by the assessee concluded the assessment by making of fixed deposits found in the name the additions of unexplained investment of Rs.15,43,108/- and Rs.11,79,456/- u/s.69 of the Act for the A.Y. 2012-13 on account of beedi rollers in M/s.Seyad Cotton Mills Ltd (SCML).

19. We note that the total amount of fixed deposit received from various beedi rollers as on 31.03.2014 amounted to Rs.4,42,60,000/-. Based on the sworn statements recorded from Shri.P.K.Meeran Mohideen, DGM

(Accounts), the AO concluded that the fixed deposits were all made by the Directors of the Seyad group and that the deposits appearing in the name of beedi rollers were nothing but unaccounted money of the directors. We find that, the AO rejecting the submission of the assessee that they had not invested any amounts in SCML in the name of beedi rollers and had not derived any interest from such deposits, by placing reliance on the statement recorded from Shri.P.K.Meeran Mohideen, made an additions in the Assessment Orders passed u/s.143(3) r.w.s. 153A of the Act, on the basis of the respective assessee Directors' shareholding pattern in SCML, as 'unaccounted investments' u/s.69 of the Act in their respective hands for the A.Ys 2012-13 to 2014-15.

20. Further we note that the subject issue included in the settlement application filed by three Directors of SCML (i.e.) Shri.F.Sadiq, Shri.T.E.S.Naina Mohammed and Shri.F.Seyad Rabbani, the Income Tax Settlement Commission ("ITSC"), vide its order dated 06.09.2023 passed u/s.245D(4) of the Act had made an addition of Rs.51,57,500/- each in their hands at Rs.12,73,125/-, Rs. 24,18,750/- and Rs.14,65,625/- for the AYs 2012-13, 2013-14 & 2014-15 respectively.

21. Later the assessees realised that the addition of Rs. 51,57,500/- was made in their hands also, though they are not the parties to the application before the settlement commission.

22. We find that the Ld. CIT(A), vide his orders passed u/s.250 of the Act, had held that the ITSC in its order had settled the subject issue of the

assesseees by taxing the entire amount of Rs.4,12,60,000/- at the rate of Rs.51,57,500/- each in the hands of all the eight directors including the three applicants vide its order u/s.245D(4) dated 06.09.2023 and not as per the share holding pattern as assessed by the AO in the case of the assesseees and accordingly, had enhanced/restricted as the case may be, the additions in dispute to Rs.12,73,125/-, Rs.24,18,750/- and Rs. 14,65,625/- for the AYs 2012-13, 2013-14 & 2014-15 respectively in the assesseees' hands.

23. We find that the Id.CIT(A) had merely adopted the order passed by the ITSC in the case of the assessee's group with respect to the subject issue, applying the same in respect of the assesseees before him, without independent application of mind and appreciating the fact that the said ITSC order was passed in case of other three directors and that to in the back of assesseees. Therefore, the reliance placed solely on the order of ITSC by the Id.CIT(A) in respect of the additions made in the case of present assesseees will tantamount to grave miscarriage of justice. Any decree passed in the case of two contesting parties which will be binding on parties *inter vivos*, cannot bind or executable against the third party / unrelated party.

24. We also find that the AO had solely relied on the statement of Shri P.K.Meeran Mohideen, without seeking explanation from the directors of M/s.Seyad Cotton Mills Ltd. during search or post-search proceedings. It is, also undisputed fact that no incriminating evidence found to show that the funds from the directors were deposited in the name of beedi rollers except relying on assumptions and statement of Shri.P.K.Meeran Mohideen who had also admitted that deposits were also made by beedi rollers. We find that

Shri.P.K.Meeran Mohideen has clearly bifurcated the amount of deposits pertaining to the assesses and their family members and the amount pertaining to beedi rollers vide response to question no.3 of his sworn statement dated 01.08.2017. The relevant extract of the same is as under:

“Q. No. 3 : Please furnish the details of fixed deposits made by the beedi rollers for the above said period. Also furnish the date and mode of such payments such as by cash/ cheque/ RTGS/ Transfer etc?”

Ans: As I already stated in my earlier reply, out of the total fixed deposits furnished in Annexure-1, only Rs.30,00,000/- belonged to Shri F Seyad Rabbani and his wife. The rest of the above said deposits were made by beedi rollers....”

25. It is evident upon perusal of Shri.P.K.Meeran Mohideen's sworn statement dated 01.08.2017 in its entirety that he had merely explained the modus operandi of the business functioning and had nowhere stated/admitted that the same pertains to the directors of the company. The AO had relied on thirty party letters without providing an opportunity to the assessee to cross examine the factual veracity of the statement made by the third parties, which is in direct violation of the principles of natural justice. The Hon'ble Supreme Court in the case of Andaman Timber Industries v. CCE [2015] 62 taxmann.com 3 (SC) (supra) held that :

“Once the assessee has disputed the correctness of the statement and wanted to cross examine the witness which was not given by the AO as well as Id. CIT (A), then the orders passed based on such statement are not sustainable in law.”

The Hon'ble Delhi High Court in case of CIT v. Ashwani Gupta, 322 ITR 396 (Delhi) held that

“Thus the Hon'ble High Court has held that once there is a violation of principles of natural justice in as much as seized material is not provided to the assessee nor is cross examination of the person on whose statement the AO relied upon, granted, then, such deficiencies would amount to denial of opportunity and consequently would be fatal to the proceedings.”

The Hon'ble Bombay High Court in the case of H.R. Mehta v. ACIT, 387 ITR 561 (Bombay) held that

“Thus, the denial of opportunity to cross examine was considered by the Hon'ble High Court which goes to the root of the matter and strikes at the very foundation of the assessment and, therefore, renders the assessment order passed by the AO not sustainable.”

26. We also find that the AO had just concluded that investments were made by the assesseees', merely on basis of genuine/bonafide clerical and inadvertent errors in the deposit forms of beedi rollers which is inevitable in manual filing of forms, by stating that *“no specific date was mentioned in the KYC form for receipt of deposits and no entry was made in the columns 'FOR OFFICE USE'.”* It is trite law that who alleges the factum of any act has onus to prove. In this case AO has miserably failed to show that the aforesaid deposits were made by the assesseees from their coffers instead of the beedi rollers hands.

27. Further, it is brought to our attention that the assessment was completed u/s.143(3) of the Act in the case of M/s.Seyad Cotton Mills Ltd. for the AYs 2013-14 & 2014-15 without any addition in this regard and further the AO in that Assessment Order relating to A.Y.2011-12 assessed u/s.143(3) r.w.s. 263 of the Act, had specifically acknowledged that details of depositors along with confirmation letter were furnished to the AO, that these were duly verified and found to be in order at the time of assessment proceedings and no adverse findings were made by the AO. Hence, the action of the AO and that of the Id.CIT(A) in making the impugned additions cannot be countenanced.

28. In the present facts and peculiar circumstances of the case and relying on the judicial precedents supra, we are of the considered view that the Id.CIT(A) erred in confirming the additions made by the AO in the assessment along with proceedings enhancing the additions made by the Assessing Officer in the assessment. Hence, we are setting aside the order of the Ld.CIT(A) and delete the additions made u/s.69 of the Act.

29. Since, the facts and circumstances of ITA No.3267/Chny/2024 for A.Y. 2012-13 are identical in the following cases, therefore our adjudication in ITA No. 3267/Chny/2024 for A.Y. 2012-13 is applicable mutatis mutandis to all the following cases:

Sl. No.	ITA Nos.	Assessee	Asst. Year
1	ITA No.3268 /Chny/2024	Shri. Naina Mohamed Seyad Abdul Kareem	2013-14
2	ITA No.3272/Chny/2024	Shri. Naina Mohamed Seyad Abdul Kareem	2014-15
3	ITA No.3269/Chny/2024	Shri. Naina Mohamed Seyad Nawaz	2014-15
4	ITA No.3270/Chny/2024	Shri. Naina Mohamed Seyad Nawaz	2012-13
5	ITA No.3271/Chny/2024	Shri. Naina Mohamed Seyad Nawaz	2013-14
6	ITA No.106 /Chny/2025	Shri. TES Fathu Rabbani	2012-13
7	ITA No.107/Chny/2025	Shri. TES Fathu Rabbani	2013-14
8	ITA No.108/Chny/2025	Shri. TES Fathu Rabbani	2014-15
9	ITA No.109 /Chny/2025	Shri. Kamaludeen Yoosufmeeran	2012-13
10	ITA No.110 /Chny/2025	Shri. Kamaludeen Yoosufmeeran	2013-14
11	ITA No.111/Chny/2025	Shri. Kamaludeen Yoosufmeeran	2014-15
12	ITA No.112/Chny/2025	Shri. Kamaludeen Seyad Abdul Kareem	2012-13
13	ITA No.113 /Chny/2025	Shri. Kamaludeen Seyad Abdul Kareem	2013-14
14	ITA No.114/Chny/2025	Shri. Kamaludeen Seyad Abdul Kareem	2014-15

30. In the result all the captioned appeals filed by the separate assesseees are allowed.

Order pronounced in the open court on 15th May, 2025 at Chennai.

Sd/-
(मनु कुमार गिरि)
(MANU KUMAR GIRI)
न्यायिक सदस्य/Judicial Member

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 15th May, 2025

SP

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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