

**आयकर अपीलीय अधिकरण “बी” न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“B” BENCH, CHENNAI**

**माननीय श्री एबी टी. वर्की, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI ABY T. VARKEY, JM AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकर अपील सं. ITA No.3335/Chny/2024**  
**(निर्धारण वर्ष / Assessment Year: 2020-21)**

<b>DCIT</b> Central Circle-2, Trichy.	<b>बनाम/</b> <b>Vs.</b>	<b>M/s N. R. Thanga Maaligai</b> # 38, Clives Building, Nandhi Kovil Street, Teppakulam, Trichy-620 002.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. <b>AAHFN-9967-E</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओर से/ <b>Appellant by</b>	:	Ms. Guathami Manivasagam (JCIT) - Ld. Sr. DR
प्रत्यर्थी की ओर से/ <b>Respondent by</b>	:	Shri N. Arjun Raj & Shri S. Girish Kumar (Advocates) - Ld. ARs

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	08-05-2025
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	27-06-2025

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by revenue for Assessment Year (AY) 2020-21 arises out of an order passed by Ld. Commissioner of Income Tax (Appeals), Chennai-19 [CIT(A)] on 30-10-2024 in the matter of an assessment framed by Ld. AO u/s 143(3) on 29-09-2022. The grounds of appeal read as under: -

1. The order of the learned commissioner of Income Tax (Appeals) is erroneous on facts of the case and in law.
2. The Ld. CIT (A) erred in deleting the addition of Rs.12,77,194/- made towards disallowance u/s 37 towards unexplained shortage of cash stated to have been expended towards expenses in observing that the survey team has not found any evidence that the

deficit of cash were utilised for any other activity other than business requirements without appreciating the fact that the onus is on the assessee to prove the same.

3. The Ld. CIT (A) erred in deleting the addition made of Rs.1,40,11,698/- u/s.69C r.w.s. 115BBE on account of purported purchases towards stock without appreciating fact that the assessee has not furnished any supporting details such as invoices/bills for the same.

4. The Ld. CIT (A) erred in observing that out of 3624.35 grams of excess stock assessed u/s.143(3), the stock of 1245.690 grams stands accounted for without appreciating the fact that the assessee has not furnished item-wise stock register, to back the claim of the assessee that stock of gold jewellery weighting 1245.690 grams was actually purchased prior to the date of survey but not entered in the stock register is not supported by material evidence.

5. The Ld. CIT (A) erred in reducing the stone weight of 520 grams from the excess stock of jewellery found without appreciating the fact that the assessee has not furnished any details on which basis stone weight was estimated and not furnished any evidence thereof.

6. The Ld. CIT (A) erred in valuing the excess stock of gold at the rate of Rs.3402.08 per gram based on wealth tax rules, as against Rs.3886/- per gram, which was rate as on the date of survey.

7. The Ld. CIT (A) erred in restricting the addition made of Rs.21,00,750/- u/s.69C r.w.s. 115BBE, to Rs.5,82,328/- and directing to treat the same as unaccounted business income of the assessee and to tax at normal rate when there was no supporting evidence to link it to the regular business of the assessee.

8. The Ld. CIT (A) erred in observing that excess cash of Rs.13,08,347/- was utilised for purchase of silver ornaments and the same has already been disallowed u/s.40A(3) by the assessee in the return of income filed and directing to exclude the same from the total addition made without appreciating the fact that the claim of the assessee that purchase of silver ornaments is not supported by material evidence.

9. For these grounds and any other ground including amendment of grounds that may be raised during the course of the appeal proceedings; the Order of Ld CIT (Appeals) may be set aside and that of Assessing Officer may be restored.

2. The Ld. Sr. DR advanced arguments supporting the assessment as framed by Ld. AO whereas Ld. AR referred to the findings of Ld. CIT(A) in the impugned order. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under. The assessee being resident firm is stated to be engaged in retail sale of gold and silver jewellery. During this AY, the assessee-firm was constituted by three partners. The impugned assessment stems from a survey action by department on the assessee wherein certain documents / discrepancies were found. As is evident from grounds of appeal, three issues arises for

our consideration – (i) Addition of shortage of cash; (ii) Addition of excess stock of jewellery.

### **Assessment Proceedings**

3.1 The assessee was subjected to survey u/s 133A on 07-02-2020 wherein the issue of shortage of cash and excess stock of gold and silver jewellery was identified. The statement of the Managing partner Shri R.N.K. Rajan was recorded therein. Subsequently, the assessee filed return of income declaring income of Rs.131.84 Lacs which was subjected to scrutiny proceedings.

#### **3.2 Addition of Shortage of Cash**

The assessee did not maintain books of accounts. During survey, physical cash was found to be for Rs.92.68 Lacs as against rough note cash balance of Rs.118.54 Lacs. Thus, there was cash shortage of Rs.25.85 Lacs. During assessment proceedings, the assessee contended that cash of Rs.13.08 Lacs was utilized for purchase of silver jewellery in cash and the same was already disallowed voluntarily u/s 40A(3). The balance amount of Rs.12.77 Lacs was utilized for meeting salary and other administrative expenses. However, finding discrepancies in assessee's documentation, Ld. AO disallowed amount of Rs.12.77 Lacs u/s 37(1).

#### **3.3 Excess Stock of Jewellery**

The excess physical stock of gold jewellery was quantified at 4734 grams. During assessment proceeding, the assessee furnished reconciliation statement and stated that certain purchases made prior to the date of survey were not entered in the stock register. The reconciliation statement has been extracted at Page No.10 of the assessment order. The assessee quantified the value of un-reconciled

excess gold at Rs.63.23 Lacs and established that this amount was already offered in the return of income. The details of missed out purchases has also been tabulated on Page Nos.10 & 11 of the assessment order. The assessee furnished copies of invoices and payment details in support of the same. The Ld. AO doubted these transactions and rejected the claim that the gold jewellery of 1245.690 grams was purchased prior to the date of survey. The assessee did not maintain proper stock register. The argument that certain stock was not considered at the time of survey was also not accepted. Finally, Ld. AO rejected the claim of the assessee and held that entire value of excess stock of jewellery was to be assessed u/s 69C and accordingly, an addition of Rs.140.11 Lacs was made u/s 69C r.w.s. 115BBE. Consequently, the additional business income of Rs.63.23 Lacs as offered by the assessee was reduced from the business income of the assessee.

#### 3.4 Excess Stock of Silver Ornaments

Similarly, the excess physical stock of silver ornaments was found to the extent of 42.015 grams. The Ld. AO valued the same at Rs.21 Lacs and added the same u/s 69C r.w.s. 115BBE and framed the assessment. Aggrieved, the assessee assailed the assessment before first appellate authority.

#### Appellate Proceedings

4.1 The Ld. CIT(A) deleted the addition of excess cash on the ground that the survey team did not find any evidence that the deficient cash was utilized for any other activity other than for business purposes. The invocation of provisions of Sec. 37(1) was devoid of merit and therefore, the impugned addition was deleted.

4.2 On the issue of excess stock of gold, the Ld. CIT(A) rendered a finding that purchase 1245.690 grams of jewellery was duly evidenced by sales invoices and the payments thereof was made through banking channels. The invoices were duly accounted for by the assessee in GST returns. Therefore, the addition to that extent could not be sustained. After considering assessee's submissions on stone weight and stock not being considered by the survey team, the un-reconciled jewellery was to the extent of Rs.1858.65 grams only which was to be valued at Rs.63.23 Lacs. The same was already offered by the assessee in its return of income which was to be accepted and considered as business income only.

4.3 On the issue of excess silver jewellery, Ld. CIT(A) allowed concession of 10% and re-computed the valuation at Rs.18.90 Lacs. The disallowance of Rs.13.08 Lacs as already offered by the assessee u/s 40A(3) on account of cash purchase of silver jewellery was to be reduced. Finally, the impugned addition was restricted to the extent of Rs.5.82 Lacs which was to be assessed as business as business income only. Aggrieved, the revenue is in further appeal before us.

### **Our findings and Adjudication**

5. So far as the issue of shortage of cash is concerned, it could be seen that cash deficit of Rs.12.77 Lacs was utilized for meeting salary and other administrative expenses. These expenses apparently has not been claimed by the assessee and incurred out of books only. When the expenditure has not, at all, been claimed by the assessee, no disallowance u/s 37(1) could be made. Further, no other utilization of cash except for business purposes has been shown. Therefore, we find no reason to interfere in the impugned order, on this issue.

6. On the issue of excess stock of gold, we concur with the findings of Ld. CIT(A) that the purchases of 1245.690 grams of jewellery was duly evidenced by sales invoices and the payments thereof was made through banking channels. The invoices were duly accounted for by the assessee in GST returns. In the absence of any independent verification by Ld. AO, these evidences could not be brushed aside. Therefore, the addition to that extent could not be sustained. We also find that stone weight could not be valued at par with pure gold. The assessee had duly reconciled the stock discrepancy during the course of assessment proceedings and arrived at un-reconciled jewellery to the extent of Rs.1858.65 grams. The same was valued at Rs.63.23 Lacs and already offered in its return of income. On the issue of excess silver jewellery, Ld. CIT(A) has allowed concession of 10% and re-computed the valuation at Rs.18.90 Lacs. The disallowance of Rs.13.08 Lacs as already offered by the assessee u/s 40A(3) on account of cash purchase of silver jewellery has been reduced from the same. Finally, the impugned addition has been restricted to the extent of Rs.5.82 Lacs which was to be assessed as business income only. After going through the findings of Ld. CIT(A), we find that both these issues have correctly been considered by Ld. CIT(A) in the impugned order and we find to reason to interfere in the same. The adjudication of Ld. CIT(A) find our concurrence.

7. The appeal stand dismissed.

*Order pronounced on 27.06.2025*

**Sd/-**

**(ABY T. VARKEY)**

**न्यायिक सदस्य / JUDICIAL MEMBER**

**Sd/-**

**(MANOJ KUMAR AGGARWAL)**

**लेखा सदस्य / ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated : 27.06.2025  
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**आदेश की प्रतिलिपि ँ ग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT Madurai/Chennai/Coimbatore
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF