

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1486/Chny/2024, Assessment Years: 2013-14

आयकर अपील सं./ITA No.1487/Chny/2024, Assessment Years: 2013-14

Muthusamy Sakthivel,
No.609/44, Chinnamuthu Main Street,
Edayankattu valasu, Erode,
Tamil Nadu-638 011.
[PAN: AURPS0909D]

Income Tax Officer,
Ward-1(1),
Erode.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by
प्रत्यर्थी की ओर से /Revenue by

: Mr.Bhupendran, Advocate
: Ms.R.Anitha, Addl.CIT.

सुनवाई की तारीख/Date of Hearing : 16.07.2025
घोषणा की तारीख /Date of Pronouncement : 18.07.2025

आदेश / ORDER

PER AMITABH SHUKLA, A.M. :

The below mentioned two appeals have been filed by the appellant assessee for AY-2013-14 contesting the order of Ld. First Appellate Authority indicated Column-E, herein below:-

S. No.	Appeal Nos.	AYs	Appellant	CIT(A) Order Details	Respondent
A	B	C	D	E	F
1	ITA No. 1486 / Chny / 2025	2013-14	Muthusamy Sakthivel, No.609/44, Chinnamuthu Main Street, Edayankattu valasu, Erode, Tamil Nadu-638 011. [PAN: AURPS0909D]	DIN & Order No.ITBA / NFAC / S / 250 / 2024-25 / 1071243012(1) dated 16.12.2024	Income Tax Officer, Ward-1(1), Erode.
2	ITA No. 1487 / Chny / 2025	2013-14	Muthusamy Sakthivel, No.609/44, Chinnamuthu Main Street, Edayankattu valasu, Erode, Tamil Nadu-638 011. [PAN: AURPS0909D]	DIN & Order No.ITBA / NFAC / S / 250 / 2024-25 / 1071245057(1) dated 16.12.2024	

2.0 It has been noted that there is a delay of 84 days in filing of both the appeals before this tribunal. In its affidavit the assessee has pleaded that the assessee had committed the impugned delay on account of adverse health issues of his tax practitioner and his wife. All these activities contributed to the delay which was neither willful nor wanton. The assessee submitted that there will not be case of any non-compliance now. The Ld. Counsel personally assured that due compliance now be made to the statutory notices of the Revenue. We have considered the justification put forth by the assessee and we are satisfied with their adequacy. We are also conscious of the fact that no litigant gains by intentionally delaying its own matters. The Ld. DR did not pose any serious objections to the delay. Accordingly, we hereby condone the delay and proceed to adjudicate both the appeals.

3.0 It has been noted that the appeal vide ITA No.1486 is contesting the additions made of Rs. 42,81,053/- u/s 69A vide order u/s 147 r.w.s. 144 dated 17.09.2021. Further, the appeal vide ITA No.1487 is in respect of imposition of penalty u/s 271(1)(c) qua the quantum addition made in ITA No.1486. Accordingly, both the appeals were heard together and are being adjudicated by this common order. We will take up appeal vide ITA No.1486 first as the penalty order is resting upon the same.

4.0 The Ld.Counsel for the assessee submitted that all its grounds of appeal are regarding the addition of Rs.42,81,053/- made by the Ld.AO

u/s. 69A and its confirmation by the Ld.CIT(A). The Ld.Counsel presented the following brief factual matrix of the case. The assessee admittedly could not make any compliance before the Ld.AO who was seized in possession of information about the cash deposit of Rs.48,81,053/- in assessee's saving's bank accounts. The Ld.AO had noted that the assessee had shown in its profit and loss account GST purchases for the year under consideration. The Ld.AO noted that GST was applicable w.e.f 01.07.2017 and therefore the projection of the assessee was fallacious. He therefore rejected the said business results. Consequently, he treated the same as an unexplained money u/s. 69A. Before the Ld. First Appellate Authority the assessee had contended that the Ld.AO ought to have considered its profits in earlier years. The Ld. CIT(A) concluded that the assessee has not availed tendered opportunities and that its compliance was inadequate. Consequently, he did not acceded to the request of setting aside the case to the Ld.AO.

5.0 Per contra, the Ld.DR would like to rely upon the order of lower authorities. It was stated that the assessee is a habitual faulter and non-compliant and does not deserves any sympathy.

6.0 We have heard the rival submissions in the light of material available on records. There is no denying the fact that the appellant has not made due compliance before the lower authorities. We are also conscious of the fact that no litigant benefits by delaying his matter.

Before us the Ld.Counsel for the assessee has submitted that the impugned cash deposits are part of its trade receipts. It has been contended that by an typographical mistake the assessee had shown GST as against Tamil Nadu VAT paid by it. The assessee has contended that all the documents in its possession to present its case before the lower authorities. We have also noted that the Ld.CIT(A) has not given any adequate finding on the merits of the addition. He has merely dismissed the appeal citing inadequate compliance by the assessee. Be that as it may be, we are of the view that the matter concerning un-explained cash deposits in assessee's bank accounts and its linkages, if any, with assessee trade receipts have not been objectively and comprehensively analyzed by the lower authorities. We are of the view that ends of justice would be met if the assessee is given one last opportunity to present its case and filed supporting evidences before the Ld.AO. The decision to remit it back to the Ld. AO is taken in view of the fact that an Assessing Officer is the fulcrum of assessment proceedings. He possess the first right and responsibilities to examine facts of a case before arriving at his decision qua determination of taxable income in a particular case. Without prejudice it has also been noted that in this case the Ld. AO did not have adequate opportunities to examine the varied facts seminal therein. We have noted with respectful deference the decision of Hon'ble Apex Court in the case of TIN box 249 ITR 216 on the

subject matter. Accordingly, the issue of addition u/s 69A made by the Ld. AO amounting to Rs. 42,81,053/- which have been contested by the assessee through its grounds of appeal stands remitted back to the Ld. AO for fresh adjudication de novo by passing a speaking order. To the extent the order of lower authorities on this issue stands set aside. The Ld. AO shall give opportunities of being heard to the assessee and it shall be bound upon the assessee to comply with the notices issued by the Ld. AO. Any non-compliance on the part of the assessee can be adversely viewed. The assessee is at liberty to produce all the evidences filed through its paper book before us including any other evidences deemed relevant in support of its claims before the Ld. AO during the readjudication proceedings. Accordingly, all the grounds of appeal raised by the assessee vide ITA No.1486 are therefore allowed for statistical purposes.

7.0 We have noted that assessee's appeal vide ITA No.1487 is w.r.t imposition of penalty u/s 271(1)(c) qua the assessment order u/s 147 r.w.s. 144 dated 17.09.2021(supra). As we have allowed assessee's appeal vide ITA No.1486 for statistical purposes by remitting the matter back to the Ld.AO, the penalty order u/s 271(1)(c) has become redundant and infructuous. The same is therefore set aside. The Revenue would however be at liberty to reconsider imposition of any penalty order u/s 271(1)(c), in accordance with law, if situation so

warrants upon readjudication of assessment order de novo as above. Accordingly, assessee's appeal vide ITA No.1487 is also allowed for statistical purposes.

8.0 In the result, the appeals of the assessee are decided as under:-

ITA Nos	Assessment Year	Result
ITA No. 1486 / Chny / 2025	2013-14	Allowed for statistical purposes.
ITA No. 1487 / Chny / 2025	2013-14	Allowed for statistical purposes.

Order pronounced on 18th July-2025 at Chennai.

Sd/-

(एबी टी. वर्की)

(ABY T VARKEY)

न्यायिक सदस्य / Judicial Member

चेन्नई/Chennai, दिनांक/Dated: 18th , July-2025.

KB/-

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

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