

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

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष  
BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1290/Chny/2025, Assessment Years: 2012-13

आयकर अपील सं./ITA No.1291/Chny/2025, Assessment Years: 2012-13

आयकर अपील सं./ITA No.1292/Chny/2025, Assessment Years: 2012-13

आयकर अपील सं./ITA No.1293/Chny/2025, Assessment Years: 2017-18

SS 74 Salem Steel Plant Employee  
Cooperative Stores Limited,  
Mohan Nagar, Salem,  
Mohan Nagar S.O(Salem),  
Tamil Nadu-636 030.  
[PAN: AADAS2954F]

Income Tax Officer,  
Ward-1(6),  
Salem.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by

: S/Shri Senthil Kumar & S.Bhupendran,  
Advocates(Erode).

प्रत्यर्थी की ओर से /Revenue by

: Ms.V.Supraja, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 15.07.2025

घोषणा की तारीख /Date of Pronouncement

: 18.07.2025

**आदेश / ORDER**

**PER AMITABH SHUKLA, A.M :**

The below mentioned four appeals have been filed by the appellant assessee for AYs-2012-13, and 2017-18 contesting the order of Ld.

Assessing Officer indicated Column-G, herein below:-

S. No.	Appeal Nos.	U/s	AYs	Appellant	CIT(A) Order Details	Respondent
A	B	C	D	E	F	G
1	ITA No. 1290 / Chny / 2025	U/s 147 r.w.s. 144 dated 19.09.2021	2012-13	<b>SS 74 Salem Steel Plant Employee Cooperative Stores Limited, Mohan Nagar, Salem, Mohan Nagar S.O(Salem), Tamil Nadu-636 030. [PAN: AADAS2954F]</b>	DIN & Order No.ITBA / NFAC / S / 250 / 2024-25 / 1073809764(1) dated 28.02.2025	<b>Income Tax Officer, Ward-1(6), Salem.</b>
2	ITA No. 1291 / Chny / 2025	U/s 271(1) ( c ) dated 14.01.2022	2012-13		DIN & Order No.ITBA / NFAC / S / 250 / 2024-25 / 1074523977(1) dated 15.03.2025	
3	ITA No. 1292 / Chny / 2025	U/s 271B dated 14.01.2022	2012-13		DIN & Order No.ITBA / NFAC / S / 250 / 2024-25 / 1074520512(1) dated 15.03.2025	
4	ITA No. 1293 / Chny / 2025	U/s 144 dated 22.11.2019	2017-18		DIN & Order No.ITBA / APL / S / 250 / 2024-25 / 1073722384(1) dated 25.02.2025	

All the above four appeals are of the same assessee centering around common issue and hence were heard together and adjudicated by this common order. Thus, the appeal vide ITA No.1290 is w.r.t order u/s 147 r.w.s 144 passed for AY-2012-13. The twin appeals vide ITA No.1291 & 1292 are w.r.t. orders u/s 271(1)(c ) and 271B for AY-2012-13. The appeal vide ITA No.1293 is contesting order u/s 144 for AY-2016-17

2.0 The registry informed that there is a delay 5 days in appeals filed by the ITA No.1290 and 1293. The assessee has pleaded that there was some misunderstanding qua limitation timelines contributing to the impugned delay. It was stated that the same was neither willful nor wanton. The assessee submitted that there will not be case of any non-compliance now. 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 this appeal.

**Appeal vide ITA No.1290**

3.0 At the outset for ITA No.1290 the Ld.Counsel for the assessee requested to file an additional ground of appeal challenging the order of the Ld.AO on legal grounds. It was contended that the same could not be taken up before the lower authorities. It was argued that on the impugned matter the assessee's case is covered by decision of Hon'ble Apex Court in the case of NTPC 229 ITR 383 postulating that a fresh claim not made before lower authorities can be admitted and adjudicated by the tribunal. The Ld. Counsel argued that in its case order u/s 144 dated 19.09.2021 was passed in response to notice u/s 148 which was issued on 26.03.2019. Within the meanings of section 153(2) order u/s 147 r.w.s. 143(3) / 144 was to be passed within a period of nine months from the end of the financial year in which notice u/s 148 was issued. Accordingly, the reassessment order under section 153(2) ought to have been passed on or before 31.12.2019 whereas the same was passed on 19.09.2021. The Ld.AR submitted that through the order u/s. 147 dated 19.09.2021 the Ld.AO has made addition u/s 68 of Rs.29,77,850/- to the

returned income on account of unexplained cash deposits of even amount. The Ld.CIT(A) has also reportedly not passed a speaking order. It was therefore pleaded that the reassessment order be set aside.

4.0 Per contra, the Ld. DR relied upon the order of lower authorities. The Ld. DR argued that Revenue's case is covered by the TOLA guidelines.

5.0 We have heard rival submissions in the light of material available on records. We have noted that the Hon'ble Apex Court in the case of NTPC 229 ITR 383 ruled that a fresh claim not made before lower authorities can be admitted and adjudicated by the tribunal. Accordingly, the addition ground raised by the appellant assessee is admitted for adjudication. We have noted provision of section 153(2) of the Act stipulating that for the present assessment year i.e AY-2012-13 reassessment order was required to be passed within a period of nine months from the end of the financial year in which notice u/s 148 was issued. The Revenue however has argued that its case is covered by the TOLA guidelines. Be that as it may be we of the view that in the interest of justice it would be appropriate to remit this case to Ld.AO for readjudication on merits after ascertaining the correct date of issue / service of notice u/s 148 and in line with prescription of section 153(2) of the Act. The order of lower authorities is therefore set aside. The Ld.AO is directed to examine the matter afresh and make a de novo

assessment, in accordance with law particularly the conditions prescribed in section 153(2) of the Act. The Ld. AO shall give due opportunity of being heard to the assessee. The assessee shall comply with all the statutory notices issued by the Ld.AO. Accordingly, all the grounds of appeal raised by the including the additional ground are allowed for statistical purposes.

6.0 In the result, the appeal of assessee vide ITA No.1290 is allowed for statistical purposes.

ITA No.1291 and ITA No. 1292

7.0 We have noted that assessee's appeal vide ITA No.1291 and ITA No. 1292 is w.r.t imposition of penalty u/s 271(1)(c ) and 271 B qua the assessment order u/s 147 r.w.s. 143(3) dated 19.09.2021(supra). As we have allowed assessee's appeal vide ITA No.1290 for statistical purposes by remitting the matter back to the Ld.AO, the penalty order u/s 271(1)(c ) and 271 B 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 ) & 271 B, in accordance with law, if situation so warrants upon readjudication of assessment order de novo as above. Accordingly, assessee's appeal vide ITA No.1291 & 1292 are also allowed for statistical purposes.

ITA No.1293

8.0 At the outset, the Ld.Counsel for the assessee submitted that it is contesting the ex-parte orders passed by the Ld.AO and the Ld.CIT(A). The Ld. Counsel argued that the impugned assessment order in the case of the assessee trust an addition of Rs.8,82,490/- has been made by treating a portion of cash deposits as its business income by applying provisions of 44AD of the Act. It was accordingly requested that the matter may be considered for remission back to the Ld.AO for assessment de novo. The Ld.Counsel submitted that full compliance would now be made. The assessee has also filed in this case an affidavit from the secretary being the authorized signatory of the appellant society, that full cooperation would now be made to the assessing officer in the statutory proceedings.

9.0 Per contra, the Ld.DR relied upon the order of lower authorities. It was submitted that the assessee is a habitual defaulter and no sympathy deserves to be given. The Ld. DR also requested for levy of cost upon the assessee.

10.0 We have heard rival submissions in the light of material available on records. It is an undisputed fact on record that the appellant society could not make due compliances before the lower authorities. The Ld. Counsel for the assessee has not been able to convince us totally on the reasons for non-compliance, inter-alia, including shortage of manpower

and engagement in other activities. We are however also conscious of the fact that no litigant gains by not prosecuting its case. Be that as it may be, we are of the view that the issues seminal to the assessee 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 matter 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 bounden 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 deemed relevant in

support of its claims before the Ld. AO during the readjudication proceedings. Accordingly, all the grounds of appeal in ITA No.1293 raised by the assessee are therefore allowed for statistical purposes. This order is however subject to payment of cost of Rs.5,000/-(Rupees five thousand only) by the assessee to the Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras within 30 days of the receipt of this order.

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

ITA Nos	Assessment Year	Result
ITA No. 1290 / Chny / 2025	2012-13	Allowed for Statistical Purposes
ITA No. 1291 / Chny / 2025	2012-13	Allowed for Statistical Purposes
ITA No. 1292 / Chny / 2025	2012-13	Allowed for Statistical Purposes
ITA No. 1293 / Chny / 2025	2017-18	Allowed for Statistical Purposes

Order pronounced on 18<sup>th</sup>, July-2025 at Chennai.

Sd/-

(यस यस विश्वनेत्र रवि)

(SS VISWANETHRA RAVI)

न्यायिक सदस्य / Judicial Member

चेन्नई/Chennai, दिनांक/Dated: 18<sup>th</sup>, 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