

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, CHENNAI**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT
& MS PADMAVATHY S, AM**

I.T.A. No. 580/Chny/2025
(Assessment Year: 2013-14)

Dhanasekaran Ramasamy, 10/1/10A, Gurumoorthy Colony, Kolathur Mettur, Salem, Tamil Nadu-636303, PAN: BIHPR6187D	Vs.	Income Tax Officer, Ward-1(6), No.3, Gandhi Road, Hasthampatti, Salem, Tamil Nadu-636007.
Appellant)	:	Respondent)

Appellant /Assessee by : Mr. A Tamilamudan, CA
Revenue / Respondent by : Mr. S.B. Rajendra Kumar
Laghimsetti, JCIT
Date of Hearing : 31.07.2025
Date of Pronouncement : 04.08.2025

ORDER

Per Padmavathy S, AM:

This appeal by the assessee is against the order of the Commissioner of Income Tax (Appeals)/ National Faceless Appeal Centre (NFAC), Delhi [In short 'CIT(A)'] passed under section 250 of the Income Tax Act, 1961 (the Act) dated 25.11.2023 for Assessment Year (AY) 2013-14. The assessee raised the following grounds of appeal:

“1) The order passed by the learned Commissioner of Income Tax (Appeals) is contrary to the facts of the case and is not legally sustainable.

2) The validity of the proceedings u/s 147 and sanction given u/s 151 of the Act by the competent Authority has to be verified from assessment records.

3) The learned CIT(A) is not justified in invoking the provisions of Sec 69 of the Act, where the Appellant has not maintained the books of accounts.

4) The CIT(A) is not justified upholding an addition to an extent of Rs. 24,55,000/-, the past savings of the Appellant, when the Appellant has demonstrated that he had business income which is the source for the past year savings and the CIT(A) also has not denied the fact. Moreover, it is submitted that the addition to an extent of Rs. 7,20,000/- is relevant to the FY 2011-12, therefore it cannot be assessed in the AY 2013-14.

5) The CIT(A) is not justified upholding an addition to an extent of Rs. 17,80,000/- the gift from family members by denying the submissions and evidence submitted by the Appellant in response to remand report by merely stating that the evidence does not generate much confidence on genuineness on the transaction as it was not held in banking mode. Moreover, it is submitted that the addition to an extent of Rs. 12,50,000/- is relevant to the FY 2011-12, therefore it cannot be assessed in the AY 2013-14.

6) In light of the above grounds and further submissions to be made at the time of the hearing, the appellant respectfully prays for the deletion of the addition of Rs. 42,35,000/- on the returned income.

7) There is a delay of 457 days in filing this appeal. A petition for condonation of delay. supported by a notarized affidavit, will be filed at the time of hearing.”

2. The assessee is an individual and did not file the return of income for AY 2013-14. The Assessing Officer (AO) received an information from the office of the DIT (I & CI) Salem that the assessee has contributed an amount of Rs. 74,35,000/- as his share in the purchase of two properties on behalf of the partnership firm M/s Madhuraj Associates in which assessee is one of the partners. Since the assessee did not file the return of income, the AO reopened the assessment by issuing notice under section 148 of the Act. In response to the same the assessee filed the return of income on 21.12.2019 declaring a total income of Rs. 1,95,790/-. The AO called on

the assessee to explain the source for the contributions made towards purchase of property. The assessee submitted that out of the sum of Rs. 74,35,000/-, Rs. 32,00,000/- was not his contribution but is that of one Mr. G. Durairaj. The assessee with regard to the balance amount submitted that he has received part of the amount as gift from his brother, mother and wife and balance from personal savings. Since the assessee did not produce any supporting evidences, the AO proceeded to treat the entire amount of Rs. 74,35,000/- as unexplained investment under section 69 of the Act. Aggrieved the assessee filed further appeal before the CIT(A). Before the CIT(A), the assessee submitted fresh evidences and accordingly, the CIT(A) called for a remand report from the AO. The CIT(A) after considering the details submitted by the assessee and the remand report deleted the addition of Rs. 32,00,000/- stating that the same is contributed by Mr. G. Durairaj. The CIT(A) however did not accept the submissions of the assessee with regard to the source for the balance investment and thus confirmed the addition to the tune of Rs. 42,35,000/-. Aggrieved the assessee is in appeal before the Tribunal.

3. There is a delay of 393 days in filing the appeal before the Tribunal and the assessee filed an affidavit seeking condonation of the delay. Having heard both the parties and perused the material on record, we are of the view that there is a reasonable and sufficient cause for the delay in filing the appeal before the Tribunal. Therefore following the Hon'ble Supreme Court decision in the case of Collector, Land Acquisition Vs. MST.Katiji & Ors., (167 ITR 471) (SC) we condone the delay of 393 days in filing the appeal and admit the appeal for adjudication.

4. We heard the parties and perused the material on record. During the course of hearing the ld. AR submitted that the assessee has been working since the age of 19 as bus conductor and has accumulated funds by saving over a period of so many

years. The ld. AR further submitted that the assessee after leaving the job as a bus conductor started a small business which is the current source of income for the assessee. The ld. AR also submitted that assessee's brother, mother and wife have supported the assessee at the time of investments by giving gift to the tune of Rs. 17,80,000/- and the balance amount is out of the funds accumulated by the assessee over a period of time. From the perusal of the ledger a/c reflecting the impugned investment made by the assessee, we notice that a sum of Rs. 7,20,000/- is reflected as opening balance. We further notice that the CIT(A) has rejected the claim of the assessee that the amount is invested in earlier year for the reason that there was no documentary evidence. However, we from the perusal of the ledger copy of assessee's a/c in the partnership firm which substantiates the fact that a sum of Rs. 7,20,000/- is the opening balance and therefore there is merit in the claim it is an amount deposited in earlier years and cannot be added as unexplained in the current year. With regard to the claim of the assessee that an amount of Rs. 17,80,000/- if gifted by his mother, wife and brother, we notice that the gift given by wife and mother are not supported by any documentary evidence that can prove their credit worthiness. We further notice that the bank statement of mother and wife does not support the claim of the assessee that he has received the amount as gift. With regard to the money received from the brother, we notice that the CIT(A) has given a finding that the bank statements reflect the amount given to the assessee but the same is held to be non-genuine for the reason that there were cash deposits prior to the transfer of money to the assessee. In our view this cannot be the reason for treating the source in the hands of the assessee as unexplained since the banks statement of the brother evidences the money being given to the assessee. Accordingly, we are of the view that the amount gifted by the brother cannot be treated as unexplained.

5. From the perusal of the additional evidence submitted by the assessee before the AO, we notice that the assessee was employed as bus conductor from 1988 and the assessee is presently running a Shop to which he pays a monthly rent of Rs. 58,230/-. During the course of hearing the Id AR drew our attention to a table containing the funds accumulated by the assessee over years and from the perusal of the same we notice that the assessee has accumulated small amounts over many years. Considering this fact, we are of the view that the entire amount which the assessee claims to be sourced from personal savings cannot be held as unexplained and therefore allowing 50% of the amount claimed by the assessee as sourced from personal savings seems reasonable. In view of these discussions and taking into account the facts and circumstances of the case, we direct the AO to restrict the overall addition under section 69 to Rs. 14,00,000/-. Before parting we would like to mention that our decision to restrict the addition confirmed by the CIT(A) as above is purely based on facts and circumstances unique to assessee's case and cannot be quoted as a precedents in any other cases.

6. In result the appeal of the assessee is partly allowed.

Order pronounced in the open court on 04-08-2025.

Sd/-
(GEORGE GEORGE K)
Vice President

Sd/-
(PADMAVATHY S)
Accountant Member

**SK, Sr. PS*

Copy of the Order forwarded to :

1.	The Appellant
2.	The Respondent
3.	DR, ITAT, Chennai
4.	CIT, Chennai
5.	Guard File