

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' 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.1562/Chny/2024
Assessment Years: 2020-21

Assistant Commissioner of Income
Tax,
Central Circle-2,
Trichy.

Thirugnanasambathan Kumaran,
No.42A, Thiyagi Srinivasan Street,
Aranthangi, Pudukkottai,
Tamil Nadu-614 616.
[PAN: BGRPK3147A]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri S.Sridhar, Advocate,
: Ms.E.Pavuna Sundari, CIT

सुनवाई की तारीख/Date of Hearing

: 15.05.2025

घोषणा की तारीख /Date of Pronouncement

: 06.08.2025

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed by the Revenue against the order bearing DIN & Order No.ITBA/APL/S/250/2023-24/1063405401(1) dated 26.03.2024 of the Leaned Commissioner of Income Tax,(herein after "CIT(A)", Chennai for the assessment year 2020-21. The reference to the word "Act" in this order hereinafter shall mean the Income Tax Act, 1961 as amended from time to time.

2.0 The only issue raised by the appellant Revenue through its grounds of appeal is regarding the deletion of addition of Rs. 3,87,26,527/- and Rs.85,850/- made by the Ld.AO u/s 69A r.w.s. 115BBE

and its part confirmation by the Ld.CIT(A). For the proper understanding of the facts of the case we deem it appropriate to narrate the brief factual matrix of the case as available in the appellate order dated 26.03.2024 supra.

“..... 2.1 The Appellant is the Proprietor of M/s. Shanthi Jewellers at Pudukkotai. A survey u/s 133A of the Act was carried out at the business premises of the Appellant on 05.03.2020. The Appellant filed return of income on 05.01.2021 by admitting an income of Rs. 98,56,430/- for the AY 2020-21. As the survey u/s 133A was conducted during the FY 2019-20 relevant to AY 2020-21, the case was selected for scrutiny by issuing a notice u/s 143(2) of the Act on 01.02.2021.

2.2 During the course of survey, the survey team has undertaken the physical inventory of stock and determined the value of physical stock to be at Rs.5,04,90,614/-. Further the survey team computed the book value of stock as on the date of survey to be at Rs. 1,17,64,087/-. The Authorised Officer confronted about the difference in stock amounting to Rs. 3,87,26,527/- (5,04,90,614-1,17,64,087) with the assessee by recording a statement. The Appellant in the statement recorded has admitted to offer 2Kg of Gold @ Rs. 35,00,000/- per Kg and 50Kg of Silver @ Rs. 40,000/- per Kg as excess stock . On the whole a sum of Rs. 90,00,000/- was admitted as his unaccounted income.

2.3 The Appellant in the return of income filed for the AY 2020-21 has admitted the said additional income of Rs.90,00,000/- and paid corresponding taxes. The AO while completing the assessment called for explanation about the difference in stock value and as the assessee did not furnish any explanation treated the difference between the book value computed and the value of physical stock amounting Rs. 3,87,26,527/- as unexplained investment as per the provisions of section 69A of the Act.

2.4 Further, during the course of survey physical cash amounting Rs. 4,57,850/- was found. The survey team on verification of the closing balance as per the books has found that there existed a cash balance of Rs. 3,72,000/-. In respect of the balance of Rs. 85,850/-, the assessee has claimed that this was the amount collected as donations from the public for temple festivals. The AO during the course of assessment proceedings rejected this claim and treated the excess cash found amounting Rs. 85,850/- as the unexplained cash u/s 69A of the Act and added the same to the returned income.....”

3.0 It is the case of the Revenue that the relief accorded by the Ld. CIT(A) is based upon incorrect understanding and facts of the case. It has been argued that the Ld.AO has made the impugned addition after carefully analyzing the facts of the case as available with connection to

the survey proceedings. The Revenue has argued that the assessee had failed to substantiate its claim through books of accounts, GST return etc qua the addition of stock. On the issue of addition of cash of Rs. 85,850/- by the Ld.AO and the relief accorded by the Ld. CIT(A) incorporating the telescoping theory, the Revenue has assailed the appellate order. It has been argued that as the surrender of Rs.90 lakhs on account of unexplained stock of jewellery was in the nature of an investment hence cash could not have been telescoped against it. It was therefore vehemently argued that the relief is erroneous and based upon inadequate and inappropriate understanding of facts.

4.0 The Ld. Counsel for the assessee reiterated the arguments taken before the Ld. CIT(A). It was urged that relief has been accorded in the light of true facts of the case. The Ld. Counsel argued that the Ld.AO had made the impugned addition by adopting the stock value at market price and not the cost value. It was urged that the Income Tax Act provides for valuation of stock at cost or market price whichever is lower. It was submitted that the Ld.CIT(A) has rightly provided relief by accepting assessee's plea of valuation of stock at cost. On the issue of telescoping also, the Ld.Counsel argued in favour of the reasoning adopted by the Ld.CIT(A) while accepting the principle of telescoping. It was urged that by doing the Ld. CIT(A) has brought real income and also simultaneously avoided double taxation of income.

5.0 We have heard the rival submissions in the light of material available on records. As far as the issue of relief accorded by the Ld. CIT(A) qua excess stock of jewellery found during the course of survey, we have noted that the Ld. CIT(A) has extensively dealt the issue in paras 6.3.1 on page 10 to 6.3.13 on page 18 of the appellate order. Before the Ld. CIT(A) the appellant had explained that the excess stock was in reality the business income of appellant. The Ld.CIT(A) rightly concluded that the excess stock found which was the part of an unaccounted business income and therefore cannot be fastened to the provisions of section 69A of the Act. The Ld.CIT(A) concluded that excess stock can only be quantified at Rs.1,13,56,956/- and not Rs.3,87,26,527/-. He worked out that after taking into consideration voluntary disclosure of Rs.90 lakhs made by the assessee in its return of income, the further amount that calls for addition is only Rs.23,51,956/-. Thus seen, as evident in para 6.3.10 of his order r.w. para 6.3.13, over and above voluntary disclosure of Rs.90 lakhs made by the assessee he confirmed the addition of Rs.23,51,956/- only. We are of the considered view that there is no infirmity in the order of the Ld.CIT(A) and that the reasoning given by him for allowing part relief is based upon true appreciation and understanding the facts of the case. We are accordingly of the view that there is no case for intervention made out in the order of the Ld.CIT(A) at this stage. Accordingly, we sustain the same qua the

issue of addition of excess stock and dismiss all the grounds of appeal raised by the Revenue on this point.

6.0 As regards the issue of telescoping of the excess cash found of Rs.85,850/-, we have noted that the reasoning given by the Ld.CIT(A) does not require any intervention, at this stage. He is correct in holding that when there is an unaccounted income on one side and an unexplained cash or asset on the other side, the benefit of telescoping deserves to be given so as to avoid any double taxation. Accordingly, we sustain the same qua the issue of addition of excess cash found of Rs.85,850/-, and dismiss all the grounds of appeal raised by the Revenue on this point as well.

7.0 In the result, the appeal of the Revenue is dismissed.

Order pronounced on 6th, Aug -2025 at Chennai.

Sd/-

(एबी टी. वर्की)

(ABY T VARKEY)

न्यायिक सदस्य / Judicial Member

चेन्नई/Chennai, दिनांक/Dated: 6th, Aug -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