

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री एस.एस. विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Shri Amitabh Shukla, Accountant Member

आयकर अपील सं./I.T.A. No.617/Chny/2025
निर्धारण वर्ष/Assessment Year: 2019-20

The Deputy Commissioner of
Income Tax,
Central Circle 2(3),
Chennai.

Vs. Sujai Anand Reddy,
No. 4, 10th Street, Nandanam,
Chennai 600 035.
[PAN: AAKPS5124P]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Ms. E. Pavuna Sundari, CIT
प्रत्यर्थी की ओर से/Respondent by : Shri K. Mohan Das, CA
सुनवाई की तारीख/ Date of hearing : 08.07.2025
घोषणा की तारीख /Date of Pronouncement : 19.08.2025

आदेश /O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

This appeal filed by the Revenue is directed against the order dated 11.12.2024 passed by the Id. Commissioner of Income Tax (Appeals) – 19, Chennai, for the assessment year 2019-20.

2. The Appellant-Revenue raised 6 grounds of which, the only issue emanates for our consideration as to whether the Id. CIT(A) is justified in deleting the addition made by the Assessing Officer in the facts and circumstances of the case.

3. Brief facts emanating from the record are that the assessee is an individual and filed return of income admitting total income of ₹.2,44,55,310/-. According to the Assessing Officer, a search and seizure action was conducted in the premises of Shri Akash Bhaskaran under section 132 of the Income Tax Act, 1961 ["Act" in short]. The assessee is a close aide of said Shri Akash Bhaskaran, who runs a business concern in the name of M/s. South India Bottling Company. In response to the notice under section 153A of the Act, the assessee reiterated the same amount which was declared in the original return of income. The Assessing Officer issued notices under section 142(1) and 143(2) of the Act. The assessee was represented by his authorized representative before the Assessing Officer and filed replies on various dates. On an examination of the seized material, the Assessing Officer found various incriminating documents in the form of loose sheets and electronic devices at the respective premises of the assessee. The Assessing Officer was of the opinion that the Vishal Film Factory has repaid loan amount to the assessee, which was supported by the statement of Shri Kirthivasan, one of the directors in M/s. Chamundeswari Estate Pvt. Ltd. and also Shri V.L. Venkatasubramaniam, MD of M/s. Rapidcare Transcription Pvt. Ltd. The Assessing Officer reproduced the relevant statements of said two persons in response to the questions put to them

in page 4 to 6 of the assessment order. The assessee also filed his submissions before the Assessing officer. The said submissions are reproduced in page 7 of the assessment order. The Assessing Officer held the said submission is not acceptable and proceeded to add an amount of ₹.1,00,00,000/- under section 69 of the Act vide his order dated 11.03.2021 passed under section 143(3) r.w.s. 153A of the Act. As aggrieved by the addition, the assessee preferred an appeal before the Id. CIT(A).

4. We note the written submissions of the assessee are reproduced in page 4 to 19 of the impugned order. The primary contention of the assessee is that no incriminating document/evidence found in the premises of the assessee relating to the subjected addition and the addition made in the hands of the assessee is not maintainable as the said addition is based on statement made by 3rd party. Considering the submissions and placing reliance of case law, the Id. CIT(A) observed and held as under:

6.3.11 The undersigned has carefully examined the issue under consideration. It may be appreciated that a search u/s 132 of the Act was carried at the residential premises of the appellant in connection the search conducted in the case of /s. South India Bottling Company. During the course of this search, the search team was not able to come across any evidences indicating that the appellant has advanced a sum of Rs. 1 Crores by way of cash to M/s. VFF. In addition, there exist no evidence the the appellant was in the habit of advancing loans to any third party. The issue involved in the present case is whether the AO is correct in making the addition in the hands of the appellant on the basis

of the evidences found at third party premises found and seized during the course of the second search or not.

6.3.12 On examination of the facts of the case, it can be seen that the loose sheets titled "VFF Payment Details" were seized from a third party's premises (Shri Kirthivasan). The appellant was neither the author of the documents nor their custodian. The appellant's admission in the statement recorded during the search was later retracted, citing mental stress and duress. No corroborative material, such as promissory notes or agreements, was found at the appellant's premises or elsewhere to support the alleged loan transaction. The AO relied mainly on the appellant's statement recorded u/s 132(4). However, in the absence of corroborative evidence, the statement alone cannot substantiate the addition, especially when retracted. The undersigned is of the view that Additions based on third-party evidence must be corroborated with independent material. The Hon'ble Apex Court in CIT v. P.V. Kalyanasundaram [(2007) 294 ITR 49] held that loose sheets or documents found at third-party premises cannot form the sole basis for addition unless corroborated. Further a statement recorded u/s 132(4) of the Act has evidentiary value but cannot be the sole basis for an addition without corroborative evidence, as held in the case of Pullangode Rubber Produce Co. Ltd. v. State of Kerala [(1973) 91 ITR 18 (SC)]. Therefore, the undersigned is of the view that the action of the AO, without bringing corroborative evidence while making addition in the hands of the appellant is not appropriate.

6.3.13 Further the provisions of Section 69 of the Act pertain to unexplained investments. For an addition under this section, the AO must conclusively establish that the appellant made an investment that remains unexplained. In this case, the AO failed to provide any substantive evidence linking the appellant to the alleged loan transaction. As brought out earlier, the appellant's business and residential premise was also subjected to search and the search team did not come across any evidences that substantiate the fact that the appellant has actually advanced a sum of Rs. 1 Crore to M/s. VFF and also in the habit of lending money. The AO has not brought on record any link about the generation of such unaccounted money by the appellant.

6.3.14 In this back drop, the undersigned is of the view that the addition of Rs.1 crore contemplated by the AO u/s 69 of the Act is unsustainable in the eyes of law. The assessment was based on uncorroborated third-party documents and a retracted statement without any independent evidence to substantiate the alleged loan transaction. Accordingly, all the grounds raised upon this issue are hereby treated as allowed and the AO is directed to delete the addition of Rs. 1 Crore made u/s 69 of the Act for the AY 2019-20.

5. Having aggrieved by the order of the Id. CIT(A), the Revenue is in appeal before the Tribunal raising aforementioned grounds.

6. The Id. DR Ms. E. Pavuna Sundari, CIT submits that the Id. CIT(A) erred in deleting the addition made on account of unexplained investment based on material seized from the premises of Shri Kirthivasan on the ground that the Assessing Officer failed to produce corroborative evidence to link the assessee to the entries, without appreciating the seized material contained the entries referring to the assessee, which was further corroborated by sworn statement of the said Shri Kirthivasan, who is Director in M/s. Chamundeswari Estate Pvt. Ltd. Further, she argued that the Id. CIT(A) erred in holding that the sworn statement, which was retracted by Shri Kirthivasan should not be relied upon without appreciating that the retraction was not based on any supporting material evidence and without any alternate explanation to the entries reflecting in seized material. She argued vehemently that the Id. CIT(A) erred in observing that the addition was made on the basis of seized documents without appreciating the seized material were in the form of entries mentioning the amount transactions. Further, she argued that the Id. CIT(A) failed to appreciate that the Assessing Officer correctly arrived presumption under section 132(4A) and 292C of the Act in respect of the materials seized during the course of search, which was further strengthened by sworn statement recorded from Shri Kirthivasan. She prayed to allow the grounds and restore assessment order.

7. The Id. AR Shri K. Mohan Das, C.A. drew our attention to the ground-wise synopsis and submits that no incriminating material or document was found or seized from the possession or control of the assessee during the course of the search and the loose sheets relied upon by the Assessing Officer were found in the premises of a third party, which cannot be used as evidence against the assessee in the absence of any nexus or corroboration. He further submits that no corroborative evidence was brought on record to substantiate the alleged cash transaction, including the absence of any confirmation from the purported borrower. The Id. AR further submits that the assessee has denied the statement recorded during the search, alleging that it was made under coercion and without proper understanding of the contents, and such a denied statement, without corroborating evidence, cannot be relied upon. The Id. AR vehemently argued that there was no recovery or detection of unaccounted cash, undisclosed assets, or any other incriminating document suggesting the existence or movement of such funds or assets with the assessee either at present or in the past. The Id. AR supported the order of the Id. CIT(A) and prayed to dismiss the grounds raised by the Appellant-Revenue.

7. Heard both the parties and perused the material available on record. The issue involved in the present case is whether the Assessing Officer is correct in making the addition in the hands of the assessee on the basis of the evidences found at third party premises and seized during the course of the second search or not. On perusal of the assessment order, we note that a search and seizure action under section 132 of the Act was initiated in the case of Shri Akash Bhaskaran, who is running a business concern in the name of M/s. South India Bottling Co. Pvt. Ltd. along with his associates and related entities on 12.04.2019. A search under section 132 of the Act was also conducted at the residential and business premises of the assessee on 12.04.2019 and impounded loose sheets and electronic devices vide annexure ANN/KP/SIBCPL/ED/S, ANN/KP/SIBCPL/LS/S & ANN/NS/SIBC/B&D/S. Similarly, search under section 132 of the Act was also carried out on 12.04.2019 in the residential premise of Shri Kirthivasan, one of the Director in M/s. Chanundeswari Estate Pvt. Ltd. and loose sheet containing details "VFF payment details" was seized vide annexure ANN/SBC/KV/LS/S. The Assessing Officer, by referring to the loose sheets found during the search in the case of Shri Kirthivasan, relying upon the answer to question No. 15 that a sum of ₹1 crore was allegedly received by the assessee in cash on 17.12.2018, the addition under section 69 of the Act

has been made on the premise that the assessee had advanced ₹1 crore in cash on 17.10.2018, which was purportedly returned on 17.12.2018. We find force in the arguments of the Id. AR that the said alleged cash outflow on 17.10.2018 does not appear anywhere in the seized loose sheet, but was made known only in the sworn statement. Thus, in our opinion, it is clear that during the course of search, the search team was not able to come across any evidence indicating that the assessee has advanced a sum of ₹.1 crore by way of cash to M/s. VFF. Thus, in our opinion, it is clear that the addition made by the Assessing Officer is only based on an unsubstantiated statement and not on the basis of any material found during the search, which cannot be legally sustained as rightly pointed out by the Id. AR.

8. It is seen from Question No. 15 posed to the assessee, which is at Page 8 of the Assessment Order, the alleged information regarding ₹1 crore received in cash on 17.12.2018 is stated to have been extracted from a system maintained by Shri Kirthivasan at the office of M/s. Rapid Care Transcription Pvt. Ltd., we find no dispute in this regard. However, in Question No. 12 posed to Shri Kirthivasan, which is at Page 4 of the Assessment Order, the same information is claimed to be based on a loose sheet found at his residence. This contradiction regarding the

location of the source document, whether it was recovered from a digital system at an office or as a physical sheet from a residence, casts serious doubt on the authenticity and evidentiary value of the material. This mutual inconsistency undermines the reliability of the very foundation on which the Assessing Officer seeks to correlate the statements and the loose sheet. Therefore, such unverified and contradictory evidence cannot be treated as credible material evidence to justify an addition under Section 69 of the Act. It becomes clear that the addition is not even made on the basis of the loose sheet allegedly found during the search, but is instead based on a speculative and inconsistent interpretation of uncorroborated statements.

9. Further, it is observed that the Assessing Officer has relied solely on the statement of the assessee to make the addition, which was subsequently denied. Such an approach, in our opinion, is not legally justified. Therefore, in the given circumstances, the unsubstantiated statement of the assessee obtained during search proceedings which was subsequently denied, cannot by itself form the basis for making an addition under the Act, especially in the absence of any corroboration from key individuals like Shri Venkata Subramanian, who is MD of M/s. Rapid Care Transcription Pvt. Ltd.

10. We note that the assessee has clearly and unequivocally stated during the course of assessment proceedings as it is appearing at Para (c), Page 9 of the Assessment Order that he has no knowledge of the transactions allegedly recorded in the loose sheets, and that such material cannot be relied upon for making an addition in his hands. The Assessing Officer did not even make an attempt to summon the alleged borrower M/s. Vishal Film Factory to corroborate the transaction. Thus, in our opinion, the addition in the hands of the assessee is made purely on the basis of the loose sheet found from the premises of a third party, without any corroborative evidence. We note that the assessee denied the statement during the assessment proceedings and no further corroboration was provided by the Appellant-Revenue to justify the original claim. A perusal of the assessment order clearly shows that it was the assessee who denied the statement recorded under Section 132(4), and not Shri Kirthivasan. There is no mention in the assessment order or on record of any retraction made by Shri Kirthivasan.

11. After examining the issue, the Id. CIT(A) elaborately discussed the case at para 6.3.1 to 6.3.10 of the impugned order and observed that during the course of this search, the search team was not able to come across any evidences indicating that the assessee has advanced a sum

of ₹. 1 Crore by way of cash to M/s. VFF. In addition, there exists no evidence that the assessee was in the habit of advancing loans to any third party. Further, the Id. CIT(A) observed that the loose sheets titled "VFF Payment Details" were seized from a third party's premises (Shri Kirthivasan). The assessee was neither the author of the documents nor their custodian. The Id. CIT(A) further noted that the assessee's admission in the statement recorded during the search was later retracted, citing mental stress and duress. No corroborative material, such as promissory notes or agreements, was found at the assessee's premises or elsewhere to support the alleged loan transaction. The Assessing Officer relied mainly on the assessee's statement recorded under section 132(4) of the Act and in the absence of corroborative evidence; the statement alone cannot substantiate the addition, especially when retracted. For the above proposition, the Id. CIT(A) relied on the decision of the Hon'ble Supreme Court in the case CIT v. P.V. Kalyanasundaram [(2007) 294 ITR 49], wherein, it was held that loose sheets or documents found at third-party premises cannot form the sole basis for addition unless corroborated.

12. The Id. CIT(A) has also observed that a statement recorded under section 132(4) of the Act has evidentiary value but cannot be the sole

basis for an addition without corroborative evidence, as held in the case of Pullangode Rubber Produce Co. Ltd. v. State of Kerala [(1973) 91 ITR 18 (SC)]. Therefore, the Id. CIT(A) was of the opinion that the action of the Assessing Officer, without bringing corroborative evidence while making addition in the hands of the assessee is not correct.

13. On further perusal of the assessment order, we note that the Assessing Officer made addition under section 69 of the Act. For an addition under section 69 of the Act, the Assessing Officer must conclusively establish that the assessee made an investment that remains unexplained. In this case, the Assessing Officer failed to provide any substantive evidence linking the assessee to the alleged loan transaction. In the impugned order, the Id. CIT(A) also noted the above observations. In this case, admittedly, the assessee's business and residential premise were subjected to search and the search team did not come across any evidences that substantiate the fact that the assessee has actually advanced a sum of Rs. 1 Crore to M/s. VFF and also in the habit of lending money and the Assessing Officer failed to bring on record any link about the generation of such unaccounted money by the assessee.

14. Under the above facts and circumstances, the Id. CIT(A) has rightly observed that the addition of ₹.1 crore made by the Assessing Officer under section 69 of the Act is unsustainable in the eyes of law and we find that the assessment was based on uncorroborated third-party documents. We also note that the Assessing Officer has not given evidentiary value of retracted statement and moreover, there is no independent evidence before the Assessing Officer to substantiate the alleged loan transaction. Thus, we are of the considered opinion that the Id. CIT(A) has rightly directed the Assessing Officer to delete the addition of ₹. 1 Crore made by the Assessing Officer under section 69 of the Act and find no infirmity in the same. We completely agree with the reasons recorded by the Id. CIT(A) at para 6.3.11 to 6.3.14 in the impugned order and therefore, the order of the Id. CIT(A) is justified. Thus, the grounds raised by the Revenue are dismissed.

15. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 19th August, 2025 at Chennai.

Sd/-
(AMITABH SHUKLA)
ACCOUNTANT MEMBER

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Chennai, Dated, 19.08.2025

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

- 1.अपीलार्थी/Appellant,
- 2.प्रत्यर्थी/ Respondent,
- 3.आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
- 4.विभागीय प्रतिनिधि/DR &
- 5.गार्ड फाईल/GF.