

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

श्री एबी टी वर्की, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.: 2850,2851,2852 & 2853/Chny/2024,
2910, 2911 & 2912/Chny/2024

निर्धारण वर्ष / Assessment Years: 2012-13, 2013-14, 2014-15,
2015-16, 2016-17, 2017-18 & 2018-19

Sundaram Sankar Anand, No.63-B-7, Mayanur, M Kaspasandai Peetai, Krishnarayapuram Taluk, Karur – 639 102	vs	The Assistant Commissioner of Income Tax, Central Circle – 2, Coimbatore.
[PAN:BVIPS-1149-E] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. V. Alagappa, C.A.
प्रत्यर्थी की ओर से/Respondent by : Mr. M.Murali, CIT (Virtual)

सुनवाई की तारीख/Date of Hearing : 25.06.2025
घोषणा की तारीख/Date of Pronouncement : 26.08.2025

आदेश / O R D E R

PER S. R. RAGHUNATHA, AM:

These seven appeals have been preferred by the Assessee against the separate orders passed by the Learned Commissioner of Income Tax (Appeals)–20, Chennai [hereinafter referred to as “Ld. CIT(A)”], all dated 19.12.2023. The impugned orders arise from the assessment orders framed by the Assistant Commissioner of Income Tax, Central Circle–2, Coimbatore [hereinafter referred to as the “Assessing Officer/AO”] for the Assessment Years (“AYs”) 2012-13 to 2018-19.

2. Since the issues involved are identical in nature across all the Assessment Years under consideration, all the appeals were heard together. Both parties advanced their submissions jointly, raising similar contentions on the said issues. Accordingly, for the sake of convenience and to avoid repetition, we deem it appropriate to dispose of all the seven appeals by way of this consolidated order.

3. At the outset, we note that the appeal for AY 2012-13 has been filed with a delay of 264 days; the appeals for AYs 2013-14 to 2015-16 have been filed with a delay of 252 days; and the appeals for AYs 2016-17 to 2018-19 have been filed with a delay of 261 days. The assessee has moved an application seeking condonation of delay, duly supported by an affidavit setting forth the reasons for such delay.

4. The Id.AR contended that the delay in filing the appeals was neither wilful nor deliberate, but occasioned due to circumstances beyond the control of the assessee. It was further submitted that the assessee has a meritorious case on merits, and that no prejudice would be caused to the Revenue if the delay were to be condoned.

5. The Id.DR, on the other hand, opposed the condonation of delay, though no material was placed on record to effectively controvert the reasons advanced on behalf of the assessee.

6. Upon consideration of the rival submissions and a perusal of the material on record, we are satisfied that the assessee has demonstrated sufficient cause for his inability to file the appeals within the prescribed period of limitation. In the circumstances, the delay in filing the aforesaid appeals stands condoned, and the appeals are admitted for adjudication on merits.

7. The brief facts of the case are that the assessee, an individual, is engaged in the business of executing civil contracts and is also a partner in certain partnership firms. A search and seizure operation u/s.132 of the Income-tax Act, 1961 [hereinafter referred to as "the Act"] was conducted in the case of the assessee on 21.09.2017. Pursuant to the said search, notices u/s.153A of the Act were issued for the AYs 2012-13 to 2017-18, and notice u/s.143(2) of the Act was issued for the AY 2018-19. Consequently, the assessments for AYs 2012-13 to 2017-18 were completed u/s.153A r.w.s 143(3) of the Act, while the assessment for AY 2018-19 was completed u/s.143(3) of the Act. The details of additions made by the AO for the respective assessment years are as under:

Particulars (Amount in Rs.)	AY 2012-13	AY 2013-14	AY 2014-15	AY 2015-16	AY 2016-17	AY 2017-18	AY 2018-19
Trade creditors treated as unexplained cash credit u/s.68	28,75,856	15,05,500	2,20,78,050	2,10,22,826	3,53,73,824	-	-
Gift received from father treated as unexplained cash credit u/s.68	25,00,000	20,00,00	-	-	-	-	-
Agricultural income treated as 'Income from other sources'	-	-	-	-	7,00,000	-	-
Disallowance of wages	-	-	-	-	-	2,13,48,672	-
Unexplained investment in jewellery	-	-	-	-	-	-	9,58,885
Unexplained investment in immovable property	-	-	-	-	-	-	73,25,679

8. Aggrieved by the aforesaid additions, the assessee preferred appeals before the Id.CIT(A). Vide separate orders dated 19.12.2023, the Id.CIT(A) dismissed the appeals, upholding the validity of the assessment orders and sustaining the additions made by the AO.

9. Aggrieved with the orders of the Id.CIT(A), the assessee has now preferred the present appeals before us, challenging the additions sustained in the assessments.

ITA Nos.2850 to 2853 / CHNY / 2024 (AYs 2012-13 to 2015-16)

10. We shall first adjudicate upon the appeals pertaining to A.Ys.2012-13 to 2015-16, inasmuch as the assessee has raised a legal ground which goes to the root of the matter.

11. The Id.AR contended that the assessments for the aforesaid years are unabated, and that the additions made by the AO are not based on any incriminating material found as a result of the search conducted under the Act.

12. The facts relevant to the issue are that the AO, while framing assessments for AYs 2012-13 to 2015-16, made additions towards trade creditors as well as gifts received from the assessee's father. These additions were based solely on the Balance Sheet filed along with the returns of income furnished by the assessee in response to notices issued u/s.153A of the Income-tax Act, 1961 ("the Act"), which is same as filed u/s.139(1) of the Act.

13. Before the Id.CIT(A), the assessee contended that since the assessments for A.Ys.2012-13 to 2015-16 were already completed/unabated on the date of search, no additions could be made in the absence of any incriminating material unearthed during the course of search proceedings. The Id.CIT(A), however, rejected this contention. With the consent of both parties, A.Y.2012-13 has been taken as the lead year, and the findings of the Id.CIT(A) in that year are relied upon for the other years as well. The observations of the Id.CIT(A) are as under:

"7.3.2 Hon'ble supreme court in case of PCIT Vs Abhisar Build well Pvt Ltd, Civil appeal 6580 of 2022 dated 24-04-2023 has adjudicated issue of whether addition on account of 'other information'/ information in ROI but not linked to incriminating material found during search can be made. Hon'ble Apex court vide para 14 (iii) held that in case any incriminating material is found/unearthed, even, in case of unabated/completed assessments, the AO would assume the jurisdiction to assess or reassess the 'total income' taking into consideration the incriminating material unearthed during the search and the other material available with the AO including the income declared in the returns; " Thus Hon'ble supreme court held that if for a particular year, incriminating material is found, then AO can make addition

basing on incriminating material and also other information available in the return of Income.

7.3.3 Coming back to question whether any incriminating material was found during search in case of appellant, Incriminating material need not necessarily be something tangible. Incriminating material includes confession by a person along with corroborative evidence.

7.3.4 It is noticed that in the present case, the AO has found incriminating fact that the appellant is not maintaining regular books of accounts wrt business though turnover of appellant from his civil contracts business for Assessment years 2012-13 to 2016-17 exceeded the limit beyond which books of accounts are to be maintained by appellant as per provisions of section 44AA and books of accounts are to be audited u/s 44AB. Though appellant is taking professional help of Auditor in filing returns of income year after year, it was noticed that he was not maintaining books of account, getting them audited. Books of accounts pertaining to business of appellant could not be found both at business premises of appellant and at the auditor's office during the course of search.

7.3.5 It is noticed that the fact found during search is that figures mentioned in Profit & Loss account, Balance Sheet filed along with / as part of Returns of Income for Assessment Years 2012-13 to 2016-17 are not backed by regular books of accounts, proper evidence.

7.3.6 This incriminating fact, it is noticed has been corroborated by Sworn Statement of appellant recorded on 23.09.2017 during course of search. In the statement, while replying to question no.9, the appellant stated that he is not maintaining any books of accounts either manually or in electronic form wrt his business and he is not in a position to file details / documents asked from Income tax returns filed so far. Thus, the fact that appellant is not in a position to establish correctness of claims made in the ROI, he can't provide details wrt figures admitted in the ROI was unearthed during the course of search, which constitutes incriminating evidence.

7.3.8 It is noticed that during search, auditor's office was also inspected but books of accounts pertaining to appellant were not found. Auditor of appellant also stated that books of accounts are not maintained by the appellant. It is noticed that the appellant has clearly stated while replying to question no.10 which is reproduced above that he is not in a position to produce list of debtors in support of Sundry Debtors appearing in Balance Sheet filed along with ROI for one of the years.

7.3.9 It is also noticed that books were not submitted during post-search proceedings and also during assessment proceedings. During appeal proceedings, appellant was asked to furnish 44AB report, if any, specifically to see whether books of accounts are available or got them audited etc. But he failed to produce the same.

7.3.10 Therefore, it can reasonably be concluded that incriminating evidence found during the course of search is that details filed in return of Income by the appellant for the year are not backed by books of accounts but they are random figures and appellant is not in a position to give details, prove the correctness of claims made in the ROI. This incriminating fact is supported

by incriminating material in the form of sworn statement of Appellant recorded during search in which he admitted non-maintenance of Books of accounts.

7.3.11 It is noticed that in response to notice u/s 153A, the appellant has admitted taxable income of Rs.22,50,840/- which is same as return filed originally for the year. It means appellant filed same details as that of original return which are not backed by Books of accounts.

7.3.12 Therefore, whatever verification made by the AO during assessment proceedings wrt correctness of different claims made in the return filed for the year whether it is Trade Creditors or Gift received from father is based on incriminating evidence found during search. Therefore, I am of considered opinion that AO has jurisdiction u/s 153A to make additions wrt both issues.

7.3.13 In view of the incriminating fact that figures admitted in the ROI filed for the year does not have any solid basis. It appears AO sought to verify correctness of details reflected in Balance Sheet filed as part of ROI. The AO specifically sought evidence for identity, creditworthiness of creditors and genuineness of transactions in case of Trade Creditors

7.3.15 Vide ground of appeal, appellant raised contention that since he is a government contractor, all the funds are released at the year end. The Assessee also has to execute more than 40% of the Annual work in the last month. He can pay the employees & suppliers only in April next year. There are material suppliers & labour suppliers who are ready to wait for long time to collect their dues. They charge more than the Market price, both the Assessee & their suppliers are aware of this. Hence the creditors are true, and can be proved during verification. However, it is noticed that the appellant has not filed any evidence to show that 40% of the work is done in the last month of the Financial year by filing copies of work bills raised in different months of the financial year against State Government wrt work allotted to him. Though appellant claimed that the creditors shown in the ROI are true, partywise breakup of creditors, confirmations from those creditors, details of dates of payments as well as evidence for payments to them in subsequent year could not be filed both during assessment proceedings and appeal proceedings. The appellant could not establish his claim to be true.

7.3.16 It is noticed that appellant during appeal proceedings raised contention wrt addition of trade creditors that the AO has wrongly added trade creditors to make up for perceived low net profit admitted by appellant in the return and such estimation made by AO is incorrect. I have examined this contention of Appellant. It is observed that though the AO made an observation in the assessment order vide para 2.3.1 that net profit disclosed by appellant being less, addition of trade creditors to net profit admitted will take the profit of appellant on par with profit generally made in the line of business of appellant but addition of trade creditors is not made for that reason. The AO twice reiterated in the same para that addition is made for failure on part of appellant to furnish evidence to prove identity, creditworthiness of creditors and genuineness of transaction.

7.3.17 It is noticed that Hon'ble courts held that unsubstantiated trade creditors can be added u/s 68 rws 69C. **Hon'ble Karnataka High court in**

Sri P.M. Abdulla Vs ITO, ITA Nos: 719/2009 & 803/2009 has held that credit purchases are noting but expenditure. If sundry creditors are not proved by the assessee, addition can be made by the assessing officer by resorting to section 68 r/w s. 69C. Similar view has been expressed by Honourable Karnataka High Court in *Shri Suresh Kumar. T. Jain Vs ITO, ITA No.160 of 201*. In this case books of accounts were not found during survey. The assessee could not produce books of accounts during assessment proceedings. The AO asked assessee to furnish details of sundry creditors like complete address of creditors and confirmation letters etc. Some creditors have responded to letters of AO, furnished information. However, the AO found discrepancy in the figures reported by sundry creditors vis-à-vis information submitted by assessee with respect to those creditors. The AO added the amount with respect to which discrepancy is found as well as amount attributable to sundry creditors who have not responded to the notices of AO. When the issue went before Honourable High Court, it upheld addition of AO u/s.41(1) and section 68.

7.3.18 In view of above, I am of considered view that AO has rightly added Rs.28,75,856/- towards Sundry Creditors, in hands of appellant for the year. Consequently, grounds of appeal of appellant related to the issue are **Dismissed**.

7.4.2 It is noticed that appellant failed to furnish any details with regard to gift as to date of gift, mode of gift, immediate source for gift in hands of father on date of gift or at least confirmation letter from father providing above details **if not gift deed**.

7.4.3 During appeal proceedings, vide written submissions appellant contended that father is assessed to income tax and has sufficient sources to make gift. Being assessed to Income tax does not automatically lead to presumption that he has sufficient sources for gift. Having returned income more than gift amount for the year also proves nothing unless it is established that the donor had sufficient sources in his hands on the date of gift. It is noticed that the appellant has not filed any evidence to prove sources in hands of donor, confirmation from donor, details of mode of gift etc.

7.4.4 In view of above, I am of considered view that AO has rightly added Rs.25,00,000/- towards gift from father, in hands of appellant for the year. Consequently, ground of appeal of appellant related to the issue is **Dismissed**."

14. The Id.AR, while referring to the dates of filing of returns and the date of search, reiterated that the assessments stood completed/unabated for the relevant years. It was submitted that, as per the settled position of law, no addition can be made in proceedings u/s.153A of the Act for unabated assessments unless such addition is based on incriminating material discovered during the search. The Id. AR emphasized that the additions sustained by the Id.CIT(A) are not traceable to any incriminating material, and

that mere admissions or statements, uncorroborated by seized material, cannot form the basis of addition. Reliance was placed on the judgment of the Hon'ble Madras High Court in *R.Bhoopathy v. CIT* [(2009) 3 TMI 1267], and on the decision of the Hon'ble Delhi High Court in *PCIT v. Pavitra Realcon Pvt. Ltd.*, wherein it was held that undisclosed income cannot be assessed solely on the basis of statements made during search. Such statements, though relevant information u/s.132(4) of the Act, must necessarily be supported by material or evidence found in the course of search to justify an addition.

15. On the strength of the above submissions, the Id.AR prayed for deletion of the additions made by the AO and sustained by the Id.CIT(A) for the AYs 2012-13 to 2015-16.

16. Per contra, the Id.DR strongly supported the order of the Id.CIT(A). It was submitted that the scope of "incriminating material" extends to include statements and confessions recorded during search proceedings. The Id.DR further argued that non-production of books of account during search constitutes an incriminating circumstance which empowers the AO to make additions in proceedings u/s.153A of the Act. Accordingly, the Id.DR contended that the AO was justified in making the impugned additions, and that the Id.CIT(A) rightly confirmed the same. The Id.DR, therefore, urged that the orders of the lower authorities be upheld.

17. We have carefully considered the rival submissions, perused the material available on record, and duly examined the facts of the case in light of the applicable legal position along with paper books filed by the Id.AR. The short controversy before us is whether the additions made by the AO in assessments framed u/s.153A of the Act are sustainable when (i) the assessments for the

relevant years were unabated on the date of search, and (ii) no incriminating material was found during the course of search.

18. We note the relevant particulars as emerging from the records are tabulated below:

Particulars	AY 2012-13	AY 2013-14	AY 2014-15	AY 2015-16
Date of filing of the original return of income	15.11.2012	16.04.2014	30.11.2014	15.09.2015
Expiry of time limit to issue notice u/s.143(2) of the Act	30.09.2013	30.09.2015	30.09.2015	30.09.2016
Date of search	21.09.2017			
Pending assessment or reassessment proceedings on the date of search	No			
Status of the assessments	Unabated/completed			

19. From the above, it is manifest that the assessments for all the impugned years had attained finality much prior to the date of search on 21.09.2017. Consequently, these assessments are to be treated as unabated assessments.

20. It is now a settled position of law that in respect of unabated assessments, the scope of assessment u/s.153A of the Act is restricted only to incriminating material found during the course of search. In the absence of such incriminating material, the completed/unabated assessment cannot be disturbed.

21. The Hon'ble Supreme Court in PCIT v. Abhisar Buildwell (P.) Ltd. [(2023) 454 ITR 212 (SC)] has categorically laid down that for unabated/completed assessments, the AO does not have jurisdiction to make additions u/s.153A of the Act unless based on incriminating material unearthed during search u/s.132 of the Act. Incriminating material is sine qua non for making additions for such years. This principle has been consistently followed by various High Courts and

Tribunals as well. The relevant extract of the decision of the Hon'ble Supreme Court in PCIT v. Abhisar Buildwell (P.) Ltd. [(2023) 454 ITR 212 (SC)] is extracted below:

“in case no incriminating material is unearthed during the search, the AO cannot assess or reassess taking into consideration the other material in respect of completed assessments/unabated assessments.”

22. In the present case, the Revenue has failed to bring on record any seized documents, material, or evidence that can be said to constitute incriminating material relating to the impugned additions. The additions have been made on the basis of a sworn statement and the Balance Sheet already filed along with the return of income. No document or paper seized during search indicates that the trade creditors were bogus or that the gift received from the assessee's father was unexplained. There is also no incriminating admission or confession by the assessee in relation to these issues. Thus, it is evident that the additions made by the AO are not founded upon any material discovered during search but are merely a review of the existing records. This is impermissible in law in respect of unabated years. Further, we find that the AO has not referred any of the incriminating documents seized during the search proceedings in respect of the additions made. It further supports that the additions are made by the AO only on the basis of the books of accounts and other documents which were part of the return of income.

23. We also find that the Id.AR's reliance on the judgment of the Hon'ble Madras High Court in R.Bhoopathy v. CIT [(2009) 3 TMI 1267], and the Hon'ble Delhi High Court in PCIT v. Pavitra Realcon Pvt. Ltd., wherein it was held that undisclosed income cannot be assessed solely on the basis of statements made during search supports the instant facts of the case.

24. In view of the foregoing discussion, we hold that the additions made by the AO on account of trade creditors and gift received from the father of the

assessee for the A.Ys.2012-13 to 2015-16 are beyond the scope of assessment permissible u/s.153A of the Act. As such, the impugned additions are unsustainable and liable to be deleted. Accordingly, we direct the AO to delete the entire additions made for the A.Ys.2012-13 to 2015-16. The grounds of appeal raised by the assessee for these four years are thus allowed.

ITA No.2910/ CHNY / 2024 (AY 2016-17):

25. The brief facts are that the assessee originally filed his return of income on 31.03.2017 declaring a total income of Rs.1,55,25,940/-. Subsequently, a search and seizure operation u/s.132 of the Act was conducted on 21.09.2017. Consequent thereto, notice u/s.153A of the Act was issued on 24.09.2019. In compliance, the assessee filed his return of income on 08.12.2019, declaring the same income as returned originally.

26. During the course of assessment proceedings, the AO noted that the assessee had disclosed sundry creditors amounting to Rs.4,35,94,254/- as on 31.03.2016. It was further recorded that, during the course of search, the assessee had admitted that proper books of account were not maintained. Consequently, the AO observed that no details in respect of the sundry creditors were furnished at the time of search.

27. However, in the course of assessment proceedings, the assessee submitted a list of sundry creditors as on 31.03.2016, which, inter alia, included a sum of Rs.3,53,73,824/- shown as payable towards salary and wages. The AO observed that the assessee had disclosed a total turnover of Rs.51,33,43,222/- for the AY 2016-17, against which the assessee had claimed expenditure towards labour and salary to the extent of Rs.29,04,67,210/-, constituting 57% of the turnover. The AO considered the claim to be excessive.

28. It was further observed by the AO that the outstanding salary and wages payable of Rs.3,53,73,824/- as on 31.03.2016 was not supported by any

corresponding bank withdrawals in the subsequent assessment year to evidence actual payment thereof. The AO was of the view that salary and wages could not reasonably remain outstanding for such a long period. Accordingly, the AO treated the aforesaid sum of Rs.3,53,73,824/- as unexplained cash credit u/s.68 of the Act and added the same to the total income of the assessee.

29. In addition, the AO made a further addition of Rs.7,00,000/- representing agricultural income disclosed by the assessee, on the ground that no documentary evidence was furnished to substantiate the carrying out of any agricultural activities.

30. Aggrieved by the aforesaid additions, the assessee preferred an appeal before the Id.CIT(A). The Id.CIT(A), however, dismissed the appeal and confirmed the additions made by the AO with the following observations:

“7.3.16 It is noticed that appellant during appeal proceedings raised contention wrt addition of salary and wages payable. The AO has wrongly added trade creditors to make up for perceived low net profit admitted by appellant in the return and such estimation made by AO is incorrect. I have examined this contention of Appellant. It is observed that though the AO made an observation in the assessment order vide para 2.3.1 that net profit disclosed by appellant being less, addition of trade creditors to net profit admitted will take the profit of appellant on par with profit generally made in the line of business of appellant but addition of trade creditors is not made for that reason. The AO twice reiterated in the same para that addition is made for failure on part of appellant to furnish evidence to prove identity, creditworthiness of creditors and genuineness of transaction. Hence, as claimed by the appellant, income for the year is not computed by AO by estimating the income of the assessee. It is clear from the Assessment order that the AO has simply disallowed the claim of appellant towards Sundry Creditors for failure on the part of appellant to back it up with sufficient evidence.

7.3.17 It is noticed that Hon'ble courts held that unsubstantiated trade creditors can be added u/s 68 rws 69C. Hon'ble Karnataka High court in Sri P.M. Abdulla Vs ITO, ITA Nos: 719/2009 & 803/2009 has held that credit purchases are nothing but expenditure. If Sundry Creditors are not proved by the assessee, addition can be made by the assessing officer by resorting to section 68 rws 69C. Similar view has been expressed by Honourable Karnataka High Court in Shri Suresh Kumar. T. Jain Vs ITO, ITA No.160 of 201. In this case books of accounts were not found during survey. The assessee could not produce books of accounts during assessment proceedings. The AO asked assessee to furnish details of Sundry Creditors

like complete address of creditors and confirmation letters etc. Some creditors have responded to letters of AO, furnished information. However, the AO found discrepancy in the figures reported by Sundry Creditors vis-a-vis information submitted by assessee with respect to those creditors. The AO added the amount with respect to which discrepancy is found as well as amount attributable to Sundry Creditors who have not responded to the notices of AO. When the issue went before Honourable High Court, it upheld addition of AO u/s.41(1) and section 68.

7.3.18 In view of above, it is considered view, and it is held that AO has rightly added Rs.3,53,73,824/- towards Sundry Creditors, in hands of appellant for the year. Consequently, grounds of appeal of appellant related to the issue are Dismissed.

7.4.1 It is noticed that appellant though initially claimed that he has not carried out any agricultural activity, subsequently stated that his father carried out agricultural operations which resulted in net agricultural income of Rs.7 lakhs as reflected in the return of income filed for the year. However, it is noticed that the appellant failed to furnish any details with regard to agricultural activities carried on by his father. He has not specified whether agricultural land is given on lease to his father or his father has carried out agricultural activity on his behalf. It is noticed that the appellant has not given details of extent of agricultural land under cultivation for the year, location of the agricultural land, copy of pattadar pass book, copy of adangal register, details of crops sown during the year, number of crops, yield per acre, evidence for input cost, evidence for sale of agricultural produce etc. It is noticed that appellant has not produced any evidence to show ownership of agricultural land during the year.

7.4.2 During appeal proceedings, the appellant claimed that he owns 30 acres of agricultural land at Karur. The lands are being looked after by his parents who are basically agriculturalists. Earning Rs.7 lakhs from 30 acres is normal and very low. It must be allowed on the basis of proof of ownership and cultivation records. Further, since nothing was found during search to prove that the assessee is not doing agriculture, addition cannot be made in the hands of the appellant. It is noticed that though appellant claims he owns 30 acres of land at Karur, the appellant has not produced any evidence to show ownership of agricultural land during the year either during assessment proceedings or during appeal proceedings. Hence, it can't be presumed that appellant has carried out Agricultural operations and earned agricultural income of Rs.7,00,000/-.

7.4.3 In view of above, I am of considered view that AO has rightly added Rs.7,00,000/- towards unsubstantiated Agricultural income, in hands of appellant for the year. Consequently, grounds of appeal related to above issue are Dismissed.”

31. Aggrieved, the assessee is in appeal before us challenging the order of the Id.CIT(A) for confirming the additions made by the AO towards salary & wages payable and agricultural income.

32. Before us, the Id.AR contended that no incriminating material had been found against the assessee, and therefore, the AO could not assume jurisdiction u/s.153A of the Act. On this premise, the learned AR argued that the assessment order itself is bad in law. The Id.AR further submitted that the AO and that of the Id.CIT(A) have erred by disallowing the expenditure and estimating the profit without rejecting the books of accounts of the assessee. It was further submitted that the assessee had duly proved all sundry creditors by establishing that the impugned wages payable is in fact stood discharged in the first quarter of the subsequent assessment year. The said wages pertained to the close of the financial year, coinciding with the period when major government contracts were executed. It was pointed out that out of the total turnover of Rs.51.33 crores, and the labour and wages expenditure was Rs.29.04 crores, out of which only Rs.3.53 crores which has been shown as accumulated expenditure payable as on 31.03.2016. Thus, it was argued that the addition of Rs.3.53 crores was wholly unwarranted and prayed for its deletion.

33. Per contra, the Id.DR supported the orders of the lower authorities and contended that in the absence of confirmations and supporting evidence, the AO was justified in treating the impugned wages payable as unverifiable.

34. We have carefully considered the orders of the authorities below, the grounds raised by the assessee, and the rival submissions and the paper book filed by the Id.AR. We note that the AO, without rejecting the books of accounts maintained by the assessee, has selectively disallowed the wages payable of Rs.3.53 crores purely on the basis of estimation. It is a settled position of law that unless the books of accounts are rejected in terms of section 145(3) of the Act, the AO cannot resort to estimation of profits by disregarding specific items of expenditure in isolation. Further, there is no material on record to suggest that the liability towards wages payable was fictitious. On the contrary, the assessee has demonstrated that liabilities were discharged in the subsequent

year and the AO has accepted the same without dispute. More importantly, if one examines the assessee's net profit history, it is evident that the assessee's results are consistent. The net profit ratios for the preceding four assessment years are as under:

AY	Net profit (%)
2012-13	4.02
2013-14	4.39
2014-15	3.76
2015-16	2.60
<i>Total for past 4 years</i>	<i>14.77</i>
Average	3.69

35. It is seen that during AY 2016-17, the assessee declared a net profit of 3.09%, which is on par with past performance of the average of preceding years. This fact militates against the allegation of any inflated or bogus wage claim.

36. In view of the foregoing, we are of the considered opinion that the addition of Rs.3.53 crores made by the AO towards salary and wages payable is unsustainable in law as well as on facts. We accordingly direct the AO to delete the impugned addition.

37. In the result, the grounds of appeal raised by the assessee stand allowed, and the disallowance of Rs.3,53,73,824/- made on account of salary and wages payable is hereby deleted.

38. The next issue is addition of Rs.7,00,000/- made by the AO and confirmed by the Id.CIT(A) on account of agricultural income declared by the assessee. Both the lower authorities found that the assessee has not furnished any documentary evidence in support of the agricultural income and activities carried out by the assessee.

39. The Id.AR submitted that the assessee has furnished the details of agricultural land holding corresponding to the agricultural income declared by the assessee before the AO and hence prayed for allowing the appeal of the assessee.

40. Per contra the Id.DR stated that the assessee has not provided any kind of evidence for having earned agricultural income and hence prayed for confirming the order of the Id.CIT(A).

41. We have carefully considered the orders of the authorities below, the grounds raised by the assessee and the rival submissions. We find that the assessee has declared agricultural income only in the impugned assessment year. However, the Id.AR has failed to provide any documentary evidence even before us during the proceedings. Further, on perusal of the Fixed assets schedule in the financial statements as on 31.03.2016 we find that the assessee has not shown the agricultural land. Therefore, in the present facts and circumstances of the case we do not find any infirmity in the order of the Id.CIT(A) and hence we are inclined to confirm the addition of disallowance of exemption of agricultural income of Rs.7.00 Lakhs by dismissing the grounds of the assessee.

ITA No.2911/ CHNY / 2024 (AY 2017-18):

42. The solitary issue which arises for adjudication in the present appeal pertains to the addition of Rs.2,13,48,672/- made by the AO on account of disallowance of wages payable shown in the balance sheet as on 31.03.2017.

43. The relevant facts, in brief, are that the assessee is engaged in the business of execution of civil contract works, predominantly government contracts. For the A.Y.2017-18, the assessee filed his return of income declaring a total turnover of Rs.36,06,22,481/- and a net profit of Rs.1,32,15,006/-, which works out to 3.66% of turnover.

44. The AO, while framing the assessment, observed that in the line of civil contract business, the generally accepted net profit margin ranges between 6% to 8%. Thus, according to the AO, the net profit ratio declared by the assessee was significantly lower than the prevailing industry standards.

45. The AO further observed that the assessee had claimed wages expenditure of Rs.19,14,56,494/-, which constitutes approximately 53% of the total turnover. The AO was of the view that such a percentage of wages expenditure was abnormally high compared to industry practice. Upon further scrutiny, it was noticed that the assessee had also disclosed sundry creditors under the head "wages payable" amounting to Rs.2,13,48,672/-. Since the assessee failed to furnish confirmations or other supporting documentary evidence in respect of such creditors, the AO held that the same represented unverifiable/bogus wages claims and accordingly disallowed the amount.

46. Aggrieved, the assessee carried the matter in appeal before the Id.CIT(A) who concurring with the reasoning of the AO, confirmed the said addition.

47. The assessee, being further aggrieved, has preferred the present appeal before us.

48. Before us, the Id.AR contended that the AO had merely resorted to estimation of profit by comparing percentage of wages and percentage of net profit with industry standards. It was submitted that no incriminating material had been found against the assessee, and therefore, the AO could not assume jurisdiction u/s.153A of the Act. On this premise, the learned AR argued that the assessment order itself is bad in law. The Id.AR further submitted that the AO and that of the Id.CIT(A) have erred by disallowing the expenditure and estimating the profit without rejecting the books of accounts of the assessee.

49. Without prejudice, it was further submitted that the assessee had duly proved all sundry creditors aggregating to Rs.10,88,86,849/-, except for the impugned wages payable, which in fact stood discharged in the subsequent assessment year. The said wages pertained to the close of the financial year, coinciding with the period when major government contracts were executed. It was pointed out that out of the total turnover of Rs.36,06,22,481/-, a substantial turnover of Rs.9,64,53,051/- i.e. almost 25% of the total turnover pertained to the month of March 2017 alone, thereby necessitating accrual of large wage liabilities at year-end.

50. The Id.AR also highlighted that in the subsequent assessment year, the AO had accepted sundry creditors of Rs.8,96,79,176/- without any disallowance, which clearly demonstrated that the wages payable at year-end in the present year were genuine liabilities duly settled thereafter. Thus, it was argued that the addition of Rs.2,13,48,672/- was wholly unwarranted and prayed for its deletion.

51. Per contra, the Id.DR supported the orders of the lower authorities and contended that in the absence of confirmations and supporting evidence, the AO was justified in treating the impugned wages payable as unverifiable.

52. We have carefully considered the orders of the authorities below, the grounds raised by the assessee, and the rival submissions and the paper book filed by the Id.AR. We note that the AO, without rejecting the books of accounts maintained by the assessee, has selectively disallowed the wages payable of Rs.2,13,48,672/- purely on the basis of estimation. It is a settled position of law that unless the books of accounts are rejected in terms of section 145(3) of the Act, the AO cannot resort to estimation of profits by disregarding specific items of expenditure in isolation. Further, there is no material on record to suggest that the liability towards wages payable was fictitious. On the contrary, the assessee has demonstrated that similar liabilities were discharged in the

subsequent year and the AO has accepted the same without dispute. More importantly, if one examines the assessee's net profit history, it is evident that the assessee's results are consistent. The net profit ratios for the preceding five assessment years are as under:

AY	Net profit (%)
2012-13	4.02
2013-14	4.39
2014-15	3.76
2015-16	2.60
2016-17	3.09
<i>Total for past 5 years</i>	<i>17.86</i>
Average	3.57

53. It is seen that during AY 2017-18, the assessee declared a net profit of 3.66%, which is not only consistent with past performance but also marginally higher than the average of preceding years. This fact militates against the allegation of any inflated or bogus wage claim.

54. In view of the foregoing, we are of the considered opinion that the addition of Rs.2,13,48,672/- made by the AO towards wages payable is unsustainable in law as well as on facts. We accordingly direct the AO to delete the impugned addition.

55. In the result, the grounds of appeal raised by the assessee stand allowed, and the disallowance of Rs.2,13,48,672/- made on account of wages payable is hereby deleted.

ITA No.2912/ CHNY / 2024 (AY 2018-19):

56. The brief facts of the case are that the assessee had filed his return of income for the A.Y.2018-19 originally on 30.03.2019 declaring a total income of Rs.73,22,460/-. Pursuant to search, case of the assessee for the impugned assessment year is selected for compulsory scrutiny assessment by issuing notice u/s.143(2) of the Act on 25.09.2019. Thereafter, the impugned

assessment was completed by the AO vide order dated 30.09.2021 making the following additions:

- i. Unexplained investment in jewellery to the extent of Rs.9,58,885/-; and
- ii. Unexplained investment in immovable property of Rs.73,25,679/-

57. The facts relevant to the first issue are that during the course of search proceedings, jewellery weighing 1,409 grams, valued at Rs.40,87,363/- was found at the residence of the assessee. The assessee, in the course of assessment proceedings, explained that 520 grams stood duly disclosed in the Balance Sheet, while 500 grams pertained to the jewellery of his spouse, received at the time of marriage. With respect to the balance 389 grams, the assessee submitted that the same represented ancestral jewellery.

58. The AO, however, observed that the assessee had failed to satisfactorily substantiate the explanation regarding the source of the said 389 grams of jewellery, valued at Rs.9,58,885/-. Consequently, the AO treated the same as unexplained investment.

59. Before the Id.CIT(A), the assessee contended that he hails from an affluent family, and considering his family background, the explanation ought to have been accepted. The Id.CIT(A), however, was not satisfied with the explanation and accordingly upheld the addition made by the AO. Aggrieved thereby, the assessee has preferred the present appeal.

60. Before us, the Id.AR submitted that while computing the unexplained jewellery, the AO failed to take into consideration the assessee himself as well as his two sons, as contemplated under CBDT Instruction No.1916 dated 11.05.1994. The Id.AR contended that as per the said Instruction, a standard allowance of 100 grams per male member, 500 grams per married female, and 250 grams per unmarried female is to be considered. On such reckoning, the assessee and his two sons would together be entitled to an additional allowance

of 300 grams, which would cover a major portion of the disputed 389 grams. With respect to the residual 89 grams, the Id. AR submitted that, having regard to the social and financial background of the family, no addition ought to be sustained. Accordingly, the Id. AR prayed for deletion of the impugned addition.

61. Per contra, the Id.DR supported the order of the Id.CIT(A) and submitted that the assessee had failed to satisfactorily establish the source of the 389 grams of jewellery found during search, and therefore, the addition made by the AO and confirmed by the Id.CIT(A) was in accordance with law.

62. We have carefully considered the rival submissions and perused the material available on record. The sole issue is with regard to the addition of Rs.9,58,885/- sustained by the lower authorities on account of alleged unexplained investment in jewellery. It is an admitted fact on record that during the course of search proceedings jewellery weighing 1,409 grams valued at Rs.40,87,363/- was found at the residence of the assessee. Out of the same, the assessee had duly explained 520 grams as recorded in the Balance Sheet and 500 grams as belonging to his spouse, being jewellery received at the time of marriage. The dispute pertains to the balance 389 grams of jewellery, valued at Rs.9,58,885/-. The explanation of the assessee that the same represented ancestral jewellery was not accepted by the AO, who treated the same as unexplained. The Id.CIT(A) also confirmed the addition.

63. We find merit in the submission of the Id.AR that while considering the quantity of jewellery to be treated as explained, the AO failed to take into account the guidelines contained in CBDT Instruction No.1916 dated 11.05.1994. As per the said Instruction, during the course of search operations, gold jewellery to the extent of 500 grams per married lady, 250 grams per unmarried lady and 100 grams per male member of the family ought to be considered as explained. As submitted by the Id.AR the assessee's family consisted of himself and two sons in addition to his spouse. Accordingly, an

allowance of 100 grams each is to be provided for the assessee and his two sons, aggregating to 300 grams. Once such standard allowance is reckoned, the unexplained jewellery reduces substantially. The balance unexplained portion works out to 89 grams. In our considered opinion and considering the credits given for jewellery held as per the aforesaid CBDT Circular, the balance 89 grams shall be treated as unexplained jewellery and liable to be sustained as taxable proportionately. Therefore, in the present facts and circumstances of the case we confirm the addition of Rs.2,19,385/- (Rs.9,58,885 / 389 grams X 89 grams) on account of 89 grams of unexplained jewellery and balance amount of Rs.7,39,500/- is deleted as explained investment of jewellery. In this backdrop, the addition sustained by the Id.CIT(A) is partly upheld by us. Accordingly, we direct the AO to delete of the addition of Rs.7,39,500/- and recompute the income by sustaining the addition of Rs.2,19,385/-. Thus the grounds of appeal raised by the assessee upon this issue is partly allowed.

64. Coming to the second issue of addition of Rs.73,25,679/- towards investment in immovable property, the limited point for our consideration is whether the same is to be taxed u/s.115BBE of the Act or at normal rates of tax. The contention of the Id.AR is that the assessee is engaged only in business activity having no other source of income. The Id.AR further submitted that no incriminating material was unearthed during the course of search indicating that the investment in immovable property was made from undisclosed sources of income. The Id.AR thus urged that the addition on account of investment in immovable property is to be taxed at normal rates of taxes instead of special rate of tax u/s.115BBE of the Act.

65. Per contra, the Id.DR strongly objected stating that an addition towards unexplained investment is always to be taxed at a special rate as per the provisions of section 115BBE of the Act.

66. We have heard both the sides and perused the material on record and gone through the orders of the lower authorities along with the paper book filed by the Id.AR. We note that in the present case, the Revenue has not brought any material on record to prove that the investment in immovable property was made out of income which was not recorded in the books or was from any unexplained or undisclosed source. Further, there is no allegation that the assessee had any other source of income apart from its disclosed business activity. In the absence of any incriminating material and considering the explanation offered by the assessee and the revenue has not brought out any evidence to prove that the assessee is having any other sources of income, we are inclined to accept the contention of the Id.AR. Therefore, the sustained addition would be liable to be taxed at the normal applicable rates by adding the unexplained investment in immovable property also under the head income from business and not u/s.115BBE of the Act. Accordingly, we allow the ground raised by the assessee and direct the AO to compute the tax at normal rates on the addition of Rs.73,25,679/- on account of immovable properties.

67. In the result the appeals of the assessee are disposed of as below:

1. ITA No.2850 to 2853/Chny/2024 for the A.Y.2012-13 to 2015-16 are allowed
2. ITA No.2910/Chny/2024 for the A.Y.2016-17 is partly allowed
3. ITA No.2911/Chny/2024 for the A.Y.2017-18 is allowed
4. ITA No.2912/Chny/2024 for the A.Y.2018-19 is partly allowed

Order pronounced in the open court on 26th August, 2025 at Chennai.

Sd/-
(एबी टी वर्की)
(ABY T VARKEY)
न्यायिक सदस्य/**Judicial Member**

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 26th August, 2025

jk

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