

आयकर अपीलीय अधिकरण, 'ए' (एस एम सी), न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' (SMC) BENCH, CHENNAI**

श्री जॉर्ज जॉर्ज, उपाध्यक्ष के समक्ष
BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT

आयकर अपील सं./ITA No.: 1567/CHNY/2025

निर्धारण वर्ष/Assessment Year: 2011-12

Shri Murugesan,
No.171-3, Roja Nagar,
Kottamettupatti,
Chettipatty PO,
Omalur Taluk,
Salem – 636 455

The Income Tax Officer,
Vs. Ward 1(6),
Salem

PAN: AVNPM 9198F

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri Senthil Kumar, Advocate
(Through Virtual Mode)

प्रत्यर्थी की ओर से/Respondent by : Shri Y. Sudarshan, JCIT

सुनवाई की तारीख/Date of Hearing : 09.09.2025

घोषणा की तारीख/Date of Pronouncement : 09.09.2025

आदेश/ ORDER

This appeal filed by the assessee is directed against the order of Addl/JCIT(A)-7, Mumbai dated 15.03.2025 passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2011-12.

2. The solitary issue argued by the Ld.AR is whether the First Appellate Authority (FAA) is justified in sustaining the addition of Rs.7,50,000/-.

3. Brief facts of the case are as follows:

The assessee, an individual did not file his return of income for the assessment year 2011-12. The Department had information that assessee had made cash deposit of Rs.14,00,000/- during the financial year relevant to the concerned assessment year. The AO issued notice u/s.148 of the Act on 23.08.2018. In response to the notice issued u/s.148 of the Act, assessee filed his return of income on 19.09.2019 admitting total income of Rs.2,29,600/-. Assessee was directed to explain the source of cash deposit made during the course of the financial year. Since there was no response from the assessee inspite giving three notices, the AO added a sum of Rs.10,15,000/- u/s.69A of the Act in the assessment order completed u/s.143(3) r.w.s. 147 of the Act (order dated 04.12.2019). The AO noticed that assessee had deposited Rs.10,00,000/- on 07.03.2011 and transferred this amount by way of cheque to one person on 11.03.2011.

4. Aggrieved by the assessment completed, assessee filed an appeal before the FAA. Before the FAA, assessee submitted that assessee had filed his return of income on 19.09.2019 in response to notice issued u/s.148 of the Act, declaring taxable income of Rs.2,29,600/- u/s.44AD of the Act. The assessee submitted before the FAA that the AO has treated the cash deposit to the extent of Rs.10,00,000/- as unexplained without considering the return of income filed and also without providing adequate opportunity to explain the source for the same. The FAA partly allowed the appeal of the assessee. The FAA after examining the bank statement for the relevant period gave credit of Rs.2,50,000/- being cash withdrawals made by the assessee immediately preceding the cash deposits. The FAA also gave credit of Rs.15,416/- being interest received on bank balance in the savings bank account. The relevant finding of the FAA reads as follows:-

“On perusal of the above bank statement, it is seen that there are hardly any entries to show that the appellant was conducting any business. Mere filing of return showing income u/s 44AD in response to notice u/s 148 is not sufficient for proving the business considering that the appellant had failed to respond to any of the statutory notices issued during the assessment proceedings. The appellant had also failed to submit any documents in support of the cash deposit during the appellate proceedings. The appellant has thus failed to prove the source of the cash deposit of Rs. 10,00,000/- when the onus was on him to prove it. The AO has, therefore, correctly made the addition. However, on perusal of the bank account, it is seen that the appellant has made a

cash withdrawal of Rs. 1,00,000/- on 24/05/2010 and Rs.1.50,000/- on 02/11/2010. I, therefore, hold that the source of cash amounting to Rs.2.50,000/- has been explained by the appellant. Further, the appellant has received interest of Rs. 15,416/- on the bank balance in saving account. Therefore. Addition of Rs. 2,65,416/- is deleted. The grounds of appeal are partly allowed.”

5. Aggrieved by the order of FAA, the assessee has filed the present appeal before the Tribunal. The Ld.AR reiterated the submissions made before the FAA.

6. The Ld.DR strongly supported the orders of the AO and the FAA.

7. I have heard rival submissions and perused the material on record. The assessee claims that he is a small time businessman doing business of purchase and sale of agriproducts. It is an admitted fact that the assessee pursuant to notice u/s.148 of the Act had filed his return of income u/s.44AD of the Act, declaring net income of Rs.2,16,000/- on a total turnover of Rs.27,00,000/- and interest income of Rs.13,600/-. The FAA had given credit of Rs.2,65,416/- being cash withdrawn by the assessee and also the interest income received on SB account. I'm of the view that the assessee should be given further credit of Rs.3,00,000/- since the assessee had declared income of Rs.2,16,000/- on presumptive

basis in the return filed pursuant to notice issued u/s.148 of the Act. Accordingly, further sum of Rs.3,00,000/- is given credit as explained for the source of cash deposit made during the relevant year. Therefore, a sum of Rs.4,50,000/- is sustained (Rs.7,50,000 – Rs.3,00,000). It is ordered accordingly.

8. In the result, the appeal filed by the assessee is partly-allowed.

Order pronounced in the open court on 9th September, 2025 at Chennai.

Sd/-

(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 9th September, 2025

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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