

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री जगदीश, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.477, 478 & 479/Chny/2024
निर्धारणवर्ष/Assessment Years: 2015-16 & 2016-17

M/s.Arusuvai Food Processors – Pvt. Ltd., No.52/17, Raja Badhar Street, Pondy Bazar, T. Nagar, Chennai-600 017.	v.	The ITO, Corporate Ward-1(1), Chennai.
[PAN: AAHCA 6759 L]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.D. Anand, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Mr.M. Mohan Babu, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	03.07.2025 / 09.07.2025
घोषणाकीतारीख /Date of Pronouncement	:	26.09.2025

आदेश / ORDER

PER ABY T. VARKEY, JM:

ITA Nos.477 & 478/Chny/2024 are appeals preferred by the assessee against separate orders of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter referred to as 'Ld.CIT(A)'), Delhi, dated 26.12.2023 for the Assessment Year (hereinafter referred to as 'AY') 2015-16 & 2016-17. ITA No.479/Chny/2024 is against the action of the Ld.CIT(A) confirming the penalty levied by the AO u/s.271(1)(c) of the



:: 2 ::

Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2016-17.

2. The main grievance of the assessee in appeals [ITA Nos.477 & 478/Chny/2024] are against the action of the Ld.CIT(A) confirming the quantum addition of ₹3,62,03,822/- u/s.68 of the Act for AY 2015-16 and ₹2,37,62,122/- for AY 2016-17. Since the issues are identical and are permeating in both assessment years, we will deal with them together.

3. The brief facts are that the assessee company is engaged in the business of trading in food grains, including dal, grams, and pulses. For the Assessment Year (AY) 2015-16, the assessee filed its return of income (RoI) on 23.09.2015, declaring total income of ₹23,450/-. The case of the assessee was subsequently selected for scrutiny under the Computer Aided Scrutiny Selection (CASS) criteria, pursuant to which statutory notices under Sections 143(2) and 142(1) of the Act, were issued. During the course of assessment proceedings, it was noted by the AO from perusal of the financial statements of the assessee that a sum of ₹3,62,03,822/- was disclosed as a trade payable to one of its Directors, Shri V. Elangovan.

4. The AO examined Shri V. Elangovan who, inter-alia, stated that he used to arrange dal products, pulses etc., from farmers of Andhra,



:: 3 ::

Telangana & Maharashtra which were supplied to assessee company for which he used to get commission from suppliers in cash (1-2%). And since same suppliers (who were arranged by Shri V. Elangovan) used to give pulses, grains, etc., on credit to the assessee company, credit balance which was due to them was shown in the name of Shri V. Elangovan as outstanding in the books of the assessee company and whenever the assessee company disbursed the money owed to the farmers [*from whom the credit purchases were made and payment made to them through Shri Elangovan*], the same was reduced to that extent in the books of assessee. The AO was of the view that Shri V. Elangovan was contradicting his own statements while filing his replies. According to him, Shri V. Elangovan was not creditworthy and therefore, he doubted his creditworthiness, even though, the assessee company had duly confirmed the existence of the aforesaid liability of ₹3.62 Crs. as payable to Shri V. Elangovan and had explained the nature of the transaction as 'trade payable' in the current liabilities and the creditor/ Shri V. Elangovan has confirmed the same before the AO. The AO doubting the creditworthiness of Shri V. Elangovan, proceeded to treat the said sum as an unexplained credit since the liabilities were not proved by the assessee company and made an addition of ₹3,62,03,822/- u/s.68 of the Act. And similar addition was made at ₹2,37,62,122/- for AY 2016-17.



:: 4 ::

5. Aggrieved by the action of the AO, the assessee preferred an appeal before the Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre (CIT(A) – NFAC), raising, *inter alia*, the following grounds:

1. Whether the AO was justified in making an addition of ₹3,62,03,822/- under Section 68 in respect of trade payables standing in the name of Mr. V. Elangovan, without appreciating the explanations furnished by the Appellant.

2. Whether trade payable forming part of the audited books of account for AY: 2014-15 and being brought forward trade payable for the impugned assessment year be brought to tax again under Section 68 of the Act.

6. The Ld.CIT(A) has, *inter-alia*, upheld the action of the AO by rejecting the aforesaid grounds on the plea that assessee failed to prove the genuineness of the transaction with Shri V. Elangovan and hence, according to him, addition made under Section 68 is justified, by holding as under:

6.6 Against this background, the 5 grounds of appeal raised by the appellant w.r.t the assessment made are taken up together for the sake of brevity and adjudicated as below:

6.7 In all the grounds of appeal the appellant has contested the addition made by the AO on account of unexplained credit u/s 68 of the Act. The issue of addition has been examined in detail in the Assessment Order as discussed hereinabove. The appellant has not been able to discharge its onus of explaining the source of the credits to the satisfaction of the AO. The onus lay on the appellant to rebut the conclusion of the AO with credible evidence, which he failed to do even during appellate proceedings despite the lapse of a prolonged period of time with multiple opportunities accorded. In its submission during appellate proceedings, the appellant stated that without prejudice to its claim of no addition to be made, if at all, the same was to be made in the hands of Mr. Elangovan in his individual capacity as the appellant company had already established his identity, creditworthiness and genuineness of transaction during assessment proceedings. I do not find any merit in this contention of the appellant. While the Identity of Mr. Elangovan may have been established, his creditworthiness and genuineness of the transaction certainly were not, as seen from the details in the Assessment Order wherein the findings of his examination on oath are also discussed. The Initial onus not being discharged by the appellant, there was no reason to shift it to the other. As observed by the AO, a mere entry in the balance sheet cannot be construed as a satisfactory disclosure of transaction. The appellant ought to have been able to provide details of goods/services received by it for



:: 5 ::

which the said trade payables were recorded. The onus lay on it to furnish evidence in respect of the transaction claimed to have transpired between the two entities. In the absence of the same and the findings made by the AO, the addition cannot be said to be arbitrary and judgemental. The said transaction/s had failed the test of genuineness and human probability. As held by the Hon'ble Supreme Court in the case of CIT v. Durga Prasad More [1971] 82 ITR 540, the taxing authorities were not required to put on blinkers while looking at the documents produced before them. They were entitled to look into the surrounding circumstances to find out the reality of the recitals made in those documents.

.....

.....

6.19 Simply making a claim and not following it up with credible, supporting evidence is an exercise in futility. In view of the facts discussed hereinabove and the case laws referred to, I see no reason to interfere with the findings of the AO in the Assessment Order. No merit is thus found in these grounds of appeal raised by the appellant and the same are dismissed.

7. The assessee's contention before the Ld.CIT(A) against the addition made u/s 68 is that credit balance of ₹3.62 Crs. was old balances, which was undisputedly brought forward from earlier years (AY 2014-15), hence no fresh amounts were credited in the accounts of the creditor (Shri V. Elangovan) under consideration during the relevant accounting year, therefore, Section 68 is not attracted. Further, the assessee strenuously contended before the Ld.CIT(A) that the question whether the liabilities were genuine or not can't be examined in the assessment proceedings for the year under consideration and such question could be examined only in the year in which the entries were first made in the accounts of the sundry creditor (Shri V. Elangovan). However, the Ld.CIT(A) has rejected the same with a specious plea that each assessment year is a separate unit and that the trade receivables and payables remained unexplained in



:: 6 ::

both years (AY 2014-15 & AY 2015-16). Accordingly, the Ld.CIT(A)/NFAC confirmed the entire addition of ₹3,62,03,822/- & ₹2,37,62,122/- under Section 68, and dismissed the appeal for AYs 2015-16 & 2016-17.

8. Aggrieved by the impugned actions of the Ld.CIT(A), the assessee is before us. The Ld.AR assailing the action of the Ld.CIT(A) contended that the credit balance of ₹3.62 Crs. was the closing balance as on 31.03.2015 reflected in the name of Shri V. Elangovan which is nothing but brought forward balance of 'trade payables' by the assessee company to him and to buttress such a contention drew our attention to Page No.23 of the Paper Book, wherein, the balance-sheet of the assessee company is found placed. He drew our attention especially to the head "current liabilities" and especially to the entry 'trade payables' as on 31.03.2015 which is shown as ₹3,62,03,822/-. Then, he also drew our attention to Page No.27 of the Paper Book, wherein, the details of 'trade payables' is given which shows the assessee's admission that amount of ₹3,62,03,822/- was outstanding against Shri V. Elangovan. According to the Ld.AR, in the backdrop of the given facts, Section 68 addition can't be made, since the credit shown against the creditor/Shri V. Elangovan was brought forward balance from earlier AY 2014-15. According to the Ld.AR, in the absence of any fresh amount credited in the accounts of creditor under consideration, during the relevant accounting year, question of



:: 7 ::

addition u/s.68 of the Act is legally untenable. So according to the Ld.AR, the AO/Ld.CIT(A) erred in treating old balances of 'trade payable' as income of the assessee for the year under consideration when the liability still existed in the books of accounts. In order to buttress the aforesaid contentions, the assessee submitted a chart as under which is noted to have been culled out from the Balance-Sheet of the respective years:-

Sl.No.	Details of Submission	Documentary Evidences
1	Disclosure in AY 2014-15 Credit balance payable to Mr. V. Elangovan recorded at ₹5,82,24,405/- under "Trade Payables" in "Current Liabilities."	5th Annual Report (FY 2013-14), Page 12 & Note No. 3 (Page 16) .-filed separately
2	Disclosure in AY 2015-16 Balance reduced to ₹3,62,03,822/- as on 31.03.2015, reflecting part-settlement and continuing liability.	6th Annual Report (FY 2014-15), Balance Sheet (Page 23), Note No. 3 (Page 27) .
3	Disclosure in AY 2016-17 Liability further reduced to ₹2,37,62,122/- as on 31.03.2016, clearly a carried-forward balance from earlier years.	7th Annual Report (FY 2015-16), Balance Sheet (Page 66) & Note No. 3 (Page 70) .
4	Nature of Credit Balance No fresh credit in the relevant year, but a carried-forward liability consistently disclosed in audited accounts.	Audited financial statements for earlier years.
5	Revenue's Conduct No addition or dispute raised by the Revenue in earlier assessment year 2014-15 when the balance first arose or was at a higher figure.	Consistent acceptance of liability in prior assessments.

9. On the basis of the above chart, it was explained by the Ld AR that in the account of the sundry creditor (Shri V. Elangovan), the 'trade payables' to Shri V. Elangovan as on 31.03.2014 i.e. for AY 2014-15 (earlier year) was to the tune of ₹5,82,24,405/- and to prove this fact, drew our attention to 5th Annual Report at Page No.12 wherein under the



:: 8 ::

'current liabilities', trade payable ₹5,82,24,405/- is shown to have been reflected & the Note No.3 to Page No.16 showed that an amount of ₹5,82,24,405/- was payable to Shri V. Elangovan as on 30.03.2014 that is relevant for AY 2014-15. Turning our attention to Sixth (6th) Annual Report relevant for AY 2015-16, found placed at Page Nos.1 to 33 of Paper Book, the Ld.AR asserted that there was no fresh credit during the relevant assessment year ended 31st March, 2015 and pointed out that the 'trade payable' to Shri V. Elangovan got reduced from ₹5.82 Crs. to ₹3.62 Crs. from the earlier year [refer 6th Annual Report Page No.23 & 27 supra]. Therefore, according to Ld AR, since no fresh credit was there during the relevant AY 2015-16, no addition u/s.68 of the Act is sustainable. Similarly a perusal of 7th Annual Report of assessee found placed at Page Nos.34-76 of Paper Book, and especially Page No.66 [balance-sheet as on 31.03.2016] under current liabilities, trade payables is shown as ₹4,50,43,642/- and details of trade payables is given in Page No.70 which shows an amount of ₹2,37,62,122/- still outstanding as payable as on 31.03.2016 to Shri V. Elangovan. So according to the Ld.AR, in the absence of fresh credit in the AY 2016-17, no addition u/s.68 of the Act is legally tenable. And for such a proposition, he relied on the decision of the Hon'ble Delhi High Court in the case of CIT v. Shri Vardhman Overseas Ltd., reported in 343 ITR 408 (Del). Therefore,



:: 9 ::

according to Ld AR, the impugned addition made u/s.68 of the Act to the tune of ₹3,62,03,822/- for AY 2015-16 & ₹2,37,62,122/- is unjustified as it represents genuine 'trade payables' carried forwarded from earlier years and therefore, prayed for deletion of the same.

10. The Ld.AR's contention is that there was no fresh credit during the relevant accounting year ended March 31, 2015, in the account of the sundry creditor (Shri V. Elangovan) and the balance as on the last day of the accounting year represented opening balance only [₹5,82,24,405/-], which got reduced to ₹3,62,03,822/- as on 31.03.2015. It was therefore asserted by him that provisions of Sec.68 of the Act can't be invoked to add the balances in the account of the sundry creditor. Similar contention was made for assailing the action of AO invoking section 68, to add the balances in the account of this sundry creditor for AY 2016-17 to the tune of ₹2,37,62,122/-, which according to him is legally untenable.

11. Per contra, the Ld.DR relied on the decision of the Ld.CIT(A) and doesn't want us to interfere in the same.

12. We have heard both the parties and perused the material available on record. We note that the assessee company is incorporated under the Companies Act, 2013, and its books of account are subject to regular statutory audit u/s.44AB of the Act. It is noted that assessee company



:: 10 ::

under the Companies Act, 2013, is required under statute to file the annual accounts and annual return within 30 days and 60 days, respectively, from the conclusion of the Annual General Meeting (AGM). And the filing of annual accounts with the Registrar of Companies (ROC) is governed under Sections 129 (3), 137, of the Companies Act, 2013. It is further noted that companies are required to prepare and present five types of financial statements. viz., (i). Balance Sheet: Presents the company's financial position, showcasing assets, liabilities, and shareholders' equity. (ii). Income Statement: Reveals the company's performance over the financial year, providing details on revenue, expenses, and profits or losses. (iii). Cash Flow Statement: Tracks the flow of cash and cash equivalents in and out of the company, divided into operating, investing, and financing activities. (iv). Statement of Changes in Capital: Provides information about the company's share capital and the changes during the financial year. (v). Notes to Financial Statements: explains the company's financial data, assumptions, and policies in detail.

13. The assessee is noted to have filed its audited financial statements, including the balance sheet and profit and loss account filed for earlier AY:2014-15 as well as captioned assessment years before the Registrar of Companies (ROC) in accordance with the provisions of Sections 129, 134, and 137 of the Companies Act. The annual returns of assessee company



:: II ::

as per section 92 of the Companies Act, 2013 has been filed before us viz., copy of Annual Report for AY:2014-15, 2015-16, 2016-17 and 2017-18.

14. Having carefully gone through the financials filed by the assessee company, we note that credit balance payable to Shri V. Elangovan has been duly disclosed in the 5th Annual Report [FY 2013-14 i.e. AY 2014-15] which is recorded at ₹5,82,24,405/- under 'trade payables' in current liabilities as on 31.03.2014 [refer 5th Annual Report at Page No.12 – Note No.3]. In the year AY 2015-16 which is also under consideration, we note that the 'trade payables' to Shri V. Elangovan, shown under the 'current liabilities' got reduced to ₹3,62,03,822/- as on 31.03.2015 implies that there was no fresh credit during the relevant assessment year ended 31st March, 2015, in the account of the sundry creditor (Shri V. Elangovan) and the balance as on the last day of the accounting year represented opening balance only i.e ₹5,82,24,405/- as on 1.04.2014. And since the liability towards the creditor has been partly settled, the liability to creditor got reduced to that extant and the carry forward liability still continues to be shown as payable to Shri V. Elangovan for AY 2015-16 & 2016-17. This fact as noted is discernable from perusal of the 6th Annual Report [FY 2014-15 i.e. AY 2015-16] balance sheet at Page No.23 & Note No.3 at Page No.27. Thus, we note from perusal of the above financials



:: 12 ::

for AY 2014-15 & 2015-16 and even for that matter it is discernable from the financials of subsequent AY 2016-17 shows that further liability towards 'trade payables' to Shri V. Elangovan has further reduced to ₹2.37 Crs. as on 31.03.2016 which clearly shows that it was nothing but brought forward trade payables from the earlier years [refer 7th Annual Report FY 2015-16 i.e. AY 2016-17 balance sheet at Page No.66 & 70]. Thus, we find that the impugned sum of ₹3,62,03,822/- for AY 2015-16 & ₹2,37,62,122/- for AY 2016-17 are nothing but brought forward liability ['trade payables'] from earlier year which was payable to Shri V. Elangovan. In this back-drop, the question before us is whether such 'trade payables' to Shri V. Elangovan can be added u/s.68 of the Act for AY 2015-16 & AY 2016-17. For convenience, section 68 of the Act reads as under:

Section 68 "Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the [Assessing Officer] [Substituted by Act 4 of 1988, Section 2, for " Income-tax Officer" (w.e.f. 1.4.1988).], satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year"

Section 68 empowers the Assessing Officer to treat any sum found credited in the books of the assessee during a previous year as the income of that year if:

- (i) The assessee fails to offer any explanation about the nature and source of the sum so credited, or
- (ii) The explanation offered is, in the opinion of the Assessing Officer, not satisfactory.

Therefore, the one of pre-condition for invoking Section 68 is that the credit must be a fresh or unexplained introduction in the books during the relevant previous year as rightly pointed out by the Ld.AR for the assessee.



:: 13 ::

15. As noted supra, the impugned sum of ₹3,62,03,822/- doesn't represent any fresh amount credited in the accounts of the creditor Shri V. Elangovan during the AY 2015-16. Similarly, a sum of ₹2,37,62,122/- was not fresh amount credited in the accounts of the creditor Shri V. Elangovan during the Ay 2016-17. The said sums in question is noted to be brought-forward trade liability from earlier years consistently reflected under 'trade payables' in the audited financial statements. As per the 5th Annual Report (FY 2013-14), the 'trade-payable' to Mr. V. Elangovan stood at ₹5,82,24,405/- as on 31.03.2014. In the 6th Annual Report (FY 2014-15), the outstanding balance stood reduced to ₹3,62,03,822/- as on 31.03.2015, establishing continuity and part-settlement of liability. And a perusal of the 7th Annual Report (FY 2015-16) the outstanding balance stood reduced to ₹2,37,62,122/- as on 31.03.2017 which fact reinforces part-settlement of liability. Since no fresh credit has been credited in the accounts of the creditor Shri V. Elangovan in the relevant years [AY 2015-16 & AY 2016-17], the action of the AO as well as the Ld.CIT(A) to make addition u/s.68 of the Act is contrary to the facts and law; and since, we find the credits in the relevant years, was old balances, both the authorities erred in treating the same as income. Hence, in the facts of the case, applicability of Section 68 of the Act was erroneous & therefore, the addition made to the tune of ₹3,62,03,822/- &



:: 14 ::

₹2,37,62,122/- for AYs 2015-16 & 2016-17 is legally unsustainable. For such a proposition, we rely on the decision of the Hon'ble Delhi High Court in the case of CIT v. Usha Stud Agricultural Farms Ltd. (2008) 301 ITR 384 (Del), CIT v. Vardhman Overseas Ltd (supra). Therefore, in the light of the aforesaid discussion, the addition of ₹3,62,03,822/- & ₹2,37,62,122/- for AYs 2015-16 & 2016-17 are directed to be deleted.

16. Therefore, the assessee succeeds and the respective grounds of appeal raised by the assessee on this issue are allowed.

For AY 2016-17:

17. Brief facts are that the assessee company filed its RoI for AY 2016-17 on 14.10.2016 admitting income of ₹17,160/-. Later, the case of the assessee was reopened u/s.147 of the Act. The AO noted in the assessment order that the entire purchase and sales during the year were shown as 'trade payables' & 'trade receivables' by the assessee, but has not been confirmed by the concerned parties. According to the AO, even though, the assessee produced ledger accounts of sundry creditors/debtors, but failed to file their ITRs and confirmations along with the bank statements and taking note of his action taken for AY 2015-16, wherein, he held that Shri V. Elangovan didn't had the creditworthiness, and finding the trade payable as on 31.03.2016 to Shri V. Elangovan was



:: 15 ::

to the tune of ₹2,37,62,122/- he added it u/s.68 of the Act . Likewise, the AO added u/s.68 of the Act of ₹2,12,81,520/- since assessee couldn't prove the genuineness of the 'trade payables' to M/s. Vitan Agro Industries Ltd. Thus, 'trade payables' of total amount of ₹4,50,43,642/- was added u/s.68 of the Act. The AO thereafter taking note of the 'trade receivables' noted that the assessee failed to file the details to prove the identity as well as confirmations from them i.e. M/s. K.C. Food Grains Marketing to the to the tune of ₹20,84,201/-, & M/s. Universal Enterprises, Dharmapuri ₹2,19,16,920/-. Thus, 'trade receivables' of total amount of ₹2,38,01,121/- was added u/s.68 of the Act. Thus the AO made a total addition of ₹6,88,61,920/- which action of the AO was confirmed by the Ld.CIT(A) by passing the impugned order. The assessee aggrieved by the action of Ld CIT(A) is before us.

18. Coming to the **Issue No.1** 'trade payables' of ₹2,37,62,122/- u/s.68 of the Act in the name of Shri V. Elangovan. We have already decided the issue, while adjudicating the appeal for AY 2015-16, wherein we directed deletion of ₹2,37,62,122/- u/s.68 of the Act. Therefore, this ground is allowed.

19. Issue No.II - Addition of ₹2,12,81,520/- u/s.68 of the Act in the name of M/s. Vitan Agro Industries Ltd., - unexplained credit ('trade payables').



:: 16 ::

20. The impugned sum of ₹2,12,81,520/- was explained by the assessee company as the closing balance/credit purchases made by the assessee company from M/s. Vitan Agro Industries Ltd., in its ordinary course of business. In order to prove that the purchases were genuine, the assessee is noted to have filed the ledger account of M/s. Vitan Agro Industries Ltd., along with purchase bills, tax invoices viz., VAT, GST records showing reporting of transactions, invoices evidencing delivery of goods, audited financial statements and ITR disclosing liability. In this regard, the Ld.AR drew our attention to the 7th Annual Report [FY 2015-16 especially to balance-sheet at Page No.66 & Note No.3 Page No.70] which shows that the 'trade payables' by assessee company to M/s. Vitan Agro Industries Ltd., is to the tune of ₹2,12,81,520/- [out of the total ₹4,50,43,642/- which includes ₹2,37,62,122/- to Shri V. Elangovan]. The Ld.AR has also filed before us the VAT return (Form No.1) of the assessee company which shows that assessee has shown to have duly reflected details of purchase from M/s. Vitan Agro Industries Ltd., and the sales of goods to M/s. Universal Enterprise. Thus, we find that the impugned action of the Ld.CIT(A) confirming addition u/s.68 of the Act is erroneous since it is nothing but the 'trade payables' to the trade-creditor. Purchase from M/s. Vitan Agro Industries Ltd., have been duly recorded in its book and the assessee had filed the details of transactions



:: 17 ::

in question along with supporting documents like VAT/GST compliances, etc. The supplier has been identified since the VAT returns of the supplier has been filed. Supplier (M/s. Vitan Agro Industries Ltd.) may not be co-operating since they were demanding their dues and the assessee was not aware of the present whereabouts of the creditor and whatever addresses were available with the assessee had been given by the supplier at the time when the assessee purchased the pulses, etc., was given to the AO. Merely because the supplier didn't respond to the notice u/s.136 of the Act adverse view couldn't have been taken and therefore, we are of the view that no addition u/s.68 of the Act is attracted since we find that this was a bona fide 'trade payables' arising out of credit purchases which facts are duly supported by entries recorded in the audited books of accounts and disclosed in statutory returns and other supporting evidences viz. VAT/GST, etc. Therefore, we direct the deletion of addition of ₹2,12,81,520/- made u/s.68 of the Act by treating it as genuine 'trade receivables' towards M/s. Vitan Agro Industries Ltd.

21. Issue No.III - 'trade receivables' [trade debtors] to the tune of ₹20,84,201/- u/s.68 of the Act in the name of M/s. K.C. Food Grains Marketing

22. In this regard, the AO on perusal of the financials of assessee company noted that ₹20,84,201/- was shown as 'trade receivables' from



:: 18 ::

M/s. K.C. Food Grains Marketing. According to the AO, the assessee failed to prove the identity of the debtors. So he made addition u/s.68 of the Act, which action has been confirmed by the Ld.CIT(A). Against the addition made by the AO/Ld.CIT(A), the assessee contended that trade receivables of ₹20,84,201/- couldn't have been added u/s.68 of the Act in the relevant AY 2016-17, because, there was no fresh credit of the said amount during the relevant year ended on 31st March, 2016, in the account of the 'sundry debtor' [M/s. K.C. Food Grains Marketing] and the balance as on the last day of the accounting year represented opening balance only viz., ₹20,84,201/- which sum was continuing as 'trade receivables' from AY 2015-16. To buttress this contention, he drew our attention to the 6th Annual Report [FY 2014-15] and then drew our attention to the balance-sheet found placed at Page No.23 and note no.6 [Page No.29] wherein, we note that under the head 'trade receivables – current assets' reflects M/s.K.C. Food Grains Marketing, ₹20,84,201/- is receivable from it. Further, a perusal of the 7th Annual Report [FY 2015-16] balance-sheet at Page No.60 & Note No.6, it is noted that said amount of ₹20,84,201/- continues to appear as 'trade receivables' from M/s. K.C. Food Grains Marketing. Since receivables of ₹20,84,201/- is a continuing brought forward balance, from earlier years and not fresh entry in the relevant assessment year, no addition could have been



:: 19 ::

legally made u/s.68 of the Act and therefore, we direct the deletion of ₹20,84,201/- made u/s.68 of the Act in respect of the 'trade receivables' from M/s. K.C. Food Grains Marketing being a bona fide carry forward receivables consistently disclosed in the audited financial statements and hence, Section 68 has no application to the opening balances or genuine trade receivables which do not represent fresh or unexplained credits during the relevant assessment year and hence, direct deletion of addition of ₹20,84,201/- made u/s.68 of the Act.

23. Issue No.IV - trade debtors/receivables to the tune of ₹2,17,16,920/- u/s.68 of the Act in the name of M/s. Universal Enterprise.

24. The AO is noted to have added ₹2,17,16,920/- u/s.68 of the Act shown under the head 'trade receivables' from M/s. Universal Enterprise which the AO added treating it as unexplained credit. The Ld.AR explained that the said amount represents credit sales of goods by the assessee to M/s. Universal Enterprises in the ordinary course of business, which goods was in turn procured by assessee from M/s. Vitan Agro Industries Ltd (supra). In order to prove the nature of the transaction, the assessee is noted to have filed Ledger account of purchaser of goods in assessee's books; (ii) VAT/GST records showing reporting of transactions; (iv) Audited financial statements and ITR disclosing the liability. The Ld.AR



ITA Nos.477, 478 & 479/Chny/2024
(AY 2015-16 & 2016-17)
M/s.Arusuvai Food Processors Pvt. Ltd.

:: 20 ::

drew our attention to the 7th Annual Report for FY 2015-16 and especially to balance-sheet placed at Page No.60 & Note No.6 at Page No.70 as well as VAT returns filed, which shows that the assessee company had purchased goods from M/s. Vitan Agro Industries Ltd., and thereafter, sold the same goods on credit to M/s. Universal Enterprise for which the assessee has duly remitted VAT and filed the returns [refer Form No.1]. The assessee is noted to be following the mercantile system of accounting and hence has rightly recorded the receivables on accrual basis. The sales have been recorded in the trading account and corresponding 'trade receivables' in the balance sheet. The AO is noted to have accepted the books, so therefore question of adding the trade receivables u/s.68 of the Act doesn't arise because the assessee has discharged the burden to prove the nature and source of the credit entries made in its books and the transactions are noted to have been subject to VAT/GST compliances. Such being the position, we direct deletion of ₹2,17,16,920/- u/s.68 of the Act. In the result, the appeal of assessee stands allowed for AY 2016-17

ITA No.479/Chny/2024

25. This is a penalty appeal preferred by the assessee company for AY 2016-17.



:: 21 ::

26. Brief facts are that the AO reopened the assessment for AY 2016-17 of the assessee company and the assessment was completed u/s.147 of the Act wherein the AO assessed the total income at Rs.6,88,61,920/-. The AO is noted to have inter-alia made addition u/s.68 of the Act of ₹4,50,43,642/- [‘trade payables’ of ₹2,37,62,122/- in the name of Shri V. Elangovan & ₹2,12,81,520/- and ‘trade payable’ in the name of M/s. Vitan Agro Industries Ltd. as unexplained credit]. Later, the AO is noted to have issued notice for levy of penalty u/s.271(1)(c) of the Act and was of the view that the assessee has concealed income in respect of unproved ‘trade payables’ amounting to ₹4,50,43,642/- and levied penalty of ₹1,48,92,779/-

27. Aggrieved, the assessee preferred an appeal before the Ld.CIT(A) who was pleased to confirm the same. Aggrieved, the assessee is before us assailing the action of imposing penalty u/s.271(1)(c) of the Act.

28. At the onset, we note from the order passed by us (supra) in the quantum assessment for AY 2016-17, where we deleted inter-alia the impugned additions made u/s.68 of the Act including ₹4,50,43,642/- ‘trade-payable’ to creditors Shri V. Elangovan & M/s. Vitan Agro Industries Ltd., hence, penalty levied on the basis of such addition can’t survive, since quantum assessment made in this regard has been deleted. Therefore, relying on the legal maxim “*sublato Fundmento Credit opus*”



ITA Nos.477, 478 & 479/Chny/2024
(AY 2015-16 & 2016-17)
M/s.Arusunvai Food Processors Pvt. Ltd.

:: 22 ::

meaning in case a foundation is removed, the super-structure falls which principle was recognized by the Hon'ble Supreme Court in the case of Badarinath v. Tamil Nadu AIR 2000 SC 3243, wherein, the Hon'ble Supreme Court held that once the basis of proceedings is gone, all consequential orders & acts would fall on the ground automatically which is applicable to judicial and quasi judicial proceedings. Therefore, since the quantum addition made u/s.68 of the Act for AY 2016-17 has been directed to be deleted, the penalty levied on the same also stands cancelled.

29. In the result, appeals filed by the assessee are allowed.

Order pronounced on the 26th day of September, 2025, in Chennai.

Sd/-

(जगदीश)

(JAGADISH)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(एबी टी. वर्की)

(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 26th September, 2025.

TLN

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF