

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI

माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य एवं माननीय श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
HON'BLE SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.3181/Chny/2024

निर्धारण वर्ष/**Assessment Year: 2017-18**

The Assistant Commissioner of
Income Tax,
Non-Corporate Circle-2,
Madurai.

v. Shri Ganesan Anbuselvam,
No.11-FA, Standard Colony,
Thiruthangal, Thiruthangal,
Tamil Nadu-626 130.
[PAN: ADQPA9937R]

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by

: Mr.S.Sridhar, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Ms.Gouthami Manivasagam,
JCIT.

सुनवाईकीतारीख/Date of Hearing

: 03.07.2025

घोषणाकीतारीख /Date of Pronouncement

: 26.09.2025

आदेश / ORDER

PER MANU KUMAR GIRI, JM:

This appeal is filed by the Revenue against the order of CIT(A), NFAC, Delhi, dated 04.09.2024 for the Assessment Year-2017-18.

2. The facts of the case and reasons put-forth by the AO in making impugned additions/disallowances in order dated 26/12/2019 u/s 143(3) of Income Tax Act 1961 (hereinafter referred to as the 'Act') are summarized hereunder.



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(i) The appellant, an Individual was engaged in the business of selling alcoholic beverages for human consumption under the name of Anbu Wines Bar & e-filed his Return of Income for the AY 2017-18 on 31/03/2018 admitting a total income of Rs. 11,97,090/- and the same was processed u/s 143(1). Subsequently, the case was selected for complete scrutiny under CASS and notice u/s 143(2) dated 21/09/2018 was issued to the appellant. Subsequently notice u/s 142(1) was issued on 07/12/2019 through E-proceeding mode calling for details. In response, the appellant furnished the details.

(ii) During the financial year 206-17, the appellant had deposited cash in his bank accounts, of Rs.58,62,000/- (Tamilnadu Grama Bank, Thiruthangal) and Rs. 2,08,000/- (City Union bank, Srivilliputhur) in the form of SBN (Specified Bank Notes) or i.e. demonetized currencies on various dates during the period of 09/11/2016 to 30/11/2016. In the Cash Transaction Report 2016, filed online by the appellant, he claimed that the nature of receipt was against cash sales.

During the assessment proceedings, appellant was given multiple opportunities by the AO through notices u/s 142(1) and hearing letters and submits evidences for the claim made by in such Cash Transaction Report. The AO noted that till the date of this impugned order, no evidences were filed by the appellant. The AO also noted from the month wise cash deposits for FY 2015-16, 2016-17 and 2017-18 that deposits during November 2016 had shown unreasonable increase of sales if such claim of appellant was correct. Hence the above cash deposits in the form of SBNs was treated by the AO as unexplained income u/s 68 r.w.s. 115BBE of the Act.

(iii) From the bank statements, the AO also observed that the appellant had made purchases for Rs 3,79,18,870/- (DDs made to purchase alcohol from TASMACH) but in the Profit & Loss Account, he had reported only Rs. 1,63,52,620/- as sales and closing stock of Rs. 17,54,210/-. Thus, the AO



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noted that the appellant had made unaccounted purchases. Hence, the unaccounted purchases of Rs.2,27,76,680/-(3,79,18,870 less 1,51,42.190) was added by the AO to the income u/s 69C of the Act.

3. Additional evidences and remand report as noted by the Id.CIT(A):

6. *Vide submissions dated 03/02/2024, the appellant filed documentary evidences in support of his claims made in grounds of appeal. On 07/02/2024, this office asked the AO to send a remand report on submissions of the appellant. On 12/03/2024, the AO submitted his remand report which was sent to the appellant by this office on 20/03/2024 & the appellant filed rejoinder to remand report on 01/04/2024 & further submissions filed on 02/07/2024 & 09/08/2024 repeating the earlier submissions dated 01/04/2024.*

6.1 *In his remand report, the AO did not oppose admission of additional evidences. It is noted that the AO had provided adequate opportunities of hearing to the appellant during the assessment proceedings which the appellant did not respond to. However, considering that the additional evidences submitted by the appellant are crucial to decide the issues in this appeal, and in turn, to compute the actual income of the appellant, under the principles of natural justice and in view of the decisions of Hon'ble Courts in Alcon Resort Holding Ltd [2023] 151 taxmann.com 98 (Bombay), Daljit Singh Sra [2017] 80 taxmann.com 271 (Punjab & Haryana), Suretech Hospital & Research Centre Ltd. [2007] 164 TAXMAN 168 (BOM.) and Rankin Infrastructure (P.) Ltd. [2022] 142 taxmann.com 37 (Mumbai-Trib.), the additional evidences, submitted by the appellant are admitted in terms of Rule 46A of I.T Rules 1962. The merits of the evidences & the report of the AO on merits of the issues shall be discussed while deciding grounds of appeal in subsequent paras of this order.*



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4. Upon hearing the assessee, the Id. CIT(A) has passed the following order as under:

7. Decision

After careful perusal of facts on record, submissions of the appellant & remand report of the AO, the grounds of appeal are decided as in subsequent paragraphs.

7.1 Ground no. 1, 3 & 4 of appeal: These grounds of appeal pertain to the claim that the impugned assessment order was against principles of natural justice, that the AO rejected explanation of the appellant without any valid grounds, that the order was passed without jurisdiction and that the AO failed to serve show-cause notice.

7.1.1 On these issues, the appellant has not filed any specific submissions. It is also noted that the AO had provided adequate opportunities of hearing to the appellant vide duly served notices. Further, the appellant had not filed any relevant evidences before the AO during the assessment proceedings and did not raise any contentions about the jurisdiction. The appellant has not been able to show which of his evidences and submissions were not taken into consideration by the AO while framing the impugned assessment order.

Considering the above, the general pleas of the appellant raised in these grounds of appeal are hereby rejected. Ground no. 1, 3 & 4 of appeal are dismissed.

7.2 Ground no. 2 & 5: These grounds of appeal pertain to the claim that the additions, of Rs. 60,70,000/- made u/s 68 on account of cash deposits and additions of Rs. 2,27,76,680/- made u/s 69C of the Act on account of purchases, were wrongly made by the AO.

7.2.1 The submissions filed by the appellant during these appeal proceedings are summarized below:



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(i) The appellant had maintained bank account with Pandian Grama Bank (Tamilnadu Grama Bank) bearing account No. 516901000004267. The appellant was also one of the main office bearers of Elan Thalir Recreation Club situated at 85, Chairman PKS Arumugam Road, Sivakasi having PAN No. AAAAE3875A and Vennila Recreation Club situated at 50/51, Main Road. Mamsapuram, Srivilliputhur (Tk)-626110 having PAN No. AACTV2511M. The appellant was running the wine shop under the name and style of Hotel Anbu and Wines Bar situated at 140A, B, C and D, Main Road, Tiruthangal-626130. The purchases were made from his common bank account to all three concerns. For the above said two recreation clubs, the payments for purchases were affected through the above said Tamilnadu Grama Bank and other banks cash demand drafts. The appellant filed copies of statement from the Pandian Grama Bank wherein the details of payments made through the bank accounts for the respective recreation clubs along with date and DD Numbers were stated to be mentioned.

(ii) The payments from the said bank accounts related to the appellant and the above said two recreation club's purchases. The details of purchases made by the appellant and the recreation clubs as reflected in the Form 26AS were tabulated as under:

Name	PAN No.	Purchase amount as per Form 26AS
Ganesan Anbuselvam	ADOPA9937R	Rs. 15142190
Vennila Recreation Club	AACTV2511M	Rs. 12449830
Elan Thalir Recreation Club	AAAAE3875A	Rs.15145930.
	Total	Rs 42737950

The appellant also filed copies of Form 26AS and bank account statement of Tamilnadu Grama Bank, bank account of Elanthalir Recreation Club at Indian bank sivakasi branch, Acc.No.6409295996 and Vennila Recreation club at Indian bank Srivilliputhur branch, Acc. No. 6409642363.



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The appellant stated that from such bank statement, it could be found that there were no deposits on day-to-day basis made to effect purchases from Tasmac and the amount deposited in the recreation club was only to cover the annual renewal charges payable. It was submitted that the daily sales were not deposited and therefore, no amount was paid from the said recreation club to effect purchases from their bank accounts. From the statement of Pandian Grama Bank, it was stated that the sales of all the three concerns were deposited in the bank account belonging to the appellant and from the said bank account, purchases for all the three concerns' payments were affected. Details of Purchases and Sales of the above three concerns was also tabulated as under:

A.Y.	Concern	Purchases as per 26AS	Sales	Gross Profit	Net Profit
2016- 2017	G Anbuselvam	1,51,42,190/-	1,63,52,620/-	12,77,780/-	7,04,556/-
2016- 2017	Vennila Recreation Club	1,24,49,830/-	1,40,93,435/-	15,03,973/-	1.05.556/-
2016- 2017	Elan Thalir Recreation Club	1,51,45,930/-	1,71,62,060/-	16,97,040/-	1.28,540/-
	Total	4.27.37.950/-	4,76,08,115/-		

It was stated that above sales amount was partly deposited into Pandian Grama Bank, Thiruthangal branch, Acc. No. 516901000004267 in the name of G. Anbuselvam.

Thus, it was submitted that the entire purchases should not be treated as the purchases of the appellant. The appellant also relied upon decisions in cases of Fancy wear [2017] 87 taxmann.com 183 (Mumbai-Trib.), Jagdish H Patel [2017] 84 taxmann.com 259 (Gujarat); Subarna Rice Mill (2018) 96 taxmann.com 286 (Cal) SLP dismissed by Hon'ble Supreme Court for low tax effect [2020] 114 taxmann.com 572 (SC), Tejua Rohit Kumar Kapadia ALP Diary No. 12670/2018 dated 20.06.2018 (SC), Haware Construction (P.) Ltd. [2019] 101 taxmann.com 168) (Mumbai - Trib).

(iv) It was also submitted that the deposits made during the demonetization period represented only the business transactions.



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Out of the sale proceeds of all the three concerns, the cash was deposited in the bank account which includes demonetized currency. From the withdrawal of the said bank account. money were utilized for making payments to Tasmac towards purchases. The sale proceeds were utilized for making the deposits during the said period. The details of sales and purchases during the month of November and December of all the three concerns were tabulated by the appellant as under:

A) Details of purchases from 09/11/2016 to 30/12/2016:

Month	Anbuselvam	Vennilla recreation club	Elan Thalir recreation club	Total
09.11.2016 to 30.11.2016	10,50,495/-	19,19,747/-	11,30,399/-	41,00,641/-
01.12.2016 to 30.12.2016	9,64,963/-	9,80,633/-	9,30,123/-	28,75,719/-
Total	20,15,458/-	29,00,380/-	20,60,522/-	69,76,360/-

B) Details of sales from 09/11/2016 to 30/12/2016:

Month	Anbuselvam	Vennilla recreation club	Elan Thalir recreation club	Total
09 11.2016 to 30.11.2016	10 10.82,686/-	8,11,865/-	10,65,190/-	29.59.741/-
01.12.2016 to 30.12.2016	14,69,808/-	12,11,325/-	14,25,880/-	41.07.013/-
Total	25,52,494/-	20.23.190/-	24.91.070/-	70.66.754/-



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Month	Anbusel vam	%	Vennila recreation club	%	Elan Thalir recreation club	%	Total
April-2016	1336765	8.17	1150460	8.16	1439985	8.39	3927210
May-2016	1274411	7.79	1199730	8.51	1428275	8.32	3902416
June-2016	1257624	7.69	1168000	8.29	1425490	8.31	3851114
July-2016	1255722	7.68	1240840	8.80	1442580	8.41	3939142
August-2016	1256835	7.69	1197391	8.50	1425510	8.31	3879736
September- 2016	1500267	9.17	1263574	8.97	1432980	8.35	4196821
October-2016	1432113	8.76	1159500	8.23	1425445	8.31	4017058
November- 2016	1405944	8.60	1070765	7.60	1421790	8.28	3898499
December- 2016	1469808	8.99	1211325	8.59	1425880	8.31	4107013
January-2017	1488623	9.10	1149340	8.16	1424300	8.30	4062263
February- 2017	1303133	7.97	1147290	8.14	1432125	8.34	3882548
March-2017	1371375	8.39	1135220	8.05	1437700	8.38	3944295
Total	16352620		14093435		17162060		47608115



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It was stated that as against the total sales effected during demonetization period of Rs. 70,66,754/ demonetized currency was deposited for Rs. 60,70,000/-, that the entire deposits were within the sales realisation. Further. it was stated that the said sales realisation deposits were utilized towards the purchase only. Thus, it was stated that these transactions represented business transactions which could not have been treated as unexplained credits.

The appellant also relied upon decisions in cases of Poona v. Bhaichand H. Gandhi 141 ITR 67 (Bom.), Mehul V.Vyas [2017] 80 taxmann. Com 311 (Mumbai-Trib.), Smt. Manasi Mahendra Oitkar [2016] 73 taxmann.com 68 (Mumbai Trib.), Smt.Madhu Raitani [2011] 10 taxmann.com 206 (Gau.), Kamal Kumar Mishra [2013] 33 taxmann.com 610, Smt.Ramilaben B. Patel [2018] 100 taxmann.com 325 (Ahmedabad Trib.), Amitabh Bansal [2019] 102 taxmann.com 229 (Delhi - Trib.), Vineshmaheswari [2019] 103 taxmann.com 274 (Delhi-Trib).

(v) The appellant also filed copies of the statement obtained from Tasmac for date-wise purchases made along with DD numbers and DD amount for the appellant i.e. Hotel Anbu and Vennila Recreation Club and Elan Thalir Recreation Club. From the common bank statements given by the Pandian Grama Bank, appellant also segregated the payments for the appellant and to the recreation clubs.

It was stated that in addition to the payments effected through Pandian Grama Bank, the cash DDs were also made from the banks & details of cash DDs we re also furnished for the concerned club and the appellant payment statements with the declaration from the above said two clubs confirming the deposits of their sales realization in the bank account of the appellant to make the payments to Tasmac.

The appellant also filed Ledger Copy of Month wise sales of Hotel Anbu. Vennila recreation club and Elanthalir recreation club, Ledger Copy of sales details on 09/11/2016 to 30/12/2016 (Demonetization Period) of Hotel Anbu, Vennila recreation club and Elanthalir recreation club, Copy of Profit and loss account of Hotel Anbu, Vennila recreation club and Elanthalir recreation club.

7.2.2 On merits of the issues involved, the AO, in his remand report dated 12/03/2024, accepted the submissions of the appellant and stated as below:



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1. Addition towards unexplained income u/s 68 of the IT (Rs.60,70,000/-)

As per the Assessment Order, the Assessing Officer has made addition of Rs. 60,70,000/- towards unexplained income. During the FY 2017-18, the assessee has deposited a sum of Rs.3,79,22,561/- in the Current account (516901000004267) maintained in Tamil Nadu Gram Bank, Thiruthangal, Sivakasi and also submitted copy of the bank statements for the FY 2016-17. It is verified from the bank statements it is found that the assessee has deposited a sum of Rs. 3,79,22,561/- and has taken the DD for the amount of Rs. 3,79,18,810/- to the Tamilnadu State Marketing Corporation (TASMAC) for the purchase of liquor.

From the details submitted by the assessee, it is ascertained and found that, the assessee is running business in the name of Anbu Hotel at Thiruthangal Sivakasi and also selling liquor. The assessee is also one of the main office bearers of Elanthalir Recreation club situated at 85, Arumugam road, Sivakasi (Pan-AAAAE3875A) and also Vennilla recreation club situated at 50/51 Main road, Mamsapuram, Srivilliputhur (Pan-AACTV2511M). The assessee is running the wine shop under the name of Hotel Anbu and wines bar situated at 140A, B, C, D Main Road, Thiruthangal. The assessee has deposited all the sales amount of the above said three business premises in one account and Demand Drafts were taken in the above said three business separately. He assessee has submitted the ledger copy of the sale accounts for the period from Apr 2016 to March 2017 amounting to Rs 1,63,52,620/-. It is ascertained from the details submitted by the assessee, it is found that the sale amount was uniform throughout the year and there increase/decrease in sales. The assessee also stated that all amount deposited in the bank account out of the amount received from sale of liquor. It is ascertained from the bank statement and sales ledger copy that there was no abnormal change during demonetization period.

1. Addition towards unaccounted purchases (Rs.2.27.76,680/-)

As per the Assessment Order, the Assessing Officer has made addition of Rs 2,27 76,680/- towards unaccounted purchases

It is ascertain from the details submitted by the assessee, it is found that the assessee is one of the main office bearers of Elanthalir Recreation club situated at 85. Arumugam road, Sivakasi(Pan-AAAAE3875A) and also Vennilla recreation club situated at 50/51 Main road, Mamsapuram, Srivilliputhur(Pan-AACTV2511M). The assessee is running the wine shop under the name of Hotel Anbu and wines bar situated at 140A.B.C.D Main



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road, Thiruthangal. The assessee has deposited all the sales amount of the above said three business premises in one and Demand Drafts were taken in the above said three business separately. The assessee has submitted that liquor purchase was made in the following three business which are reflected in the Form 26AS. The details are

Name	PAN No.	Purchase amount as per Form 26AS
Ganesan Anbuselvam	ADOPA9937R	Rs. 1,51,42,190/-
Vennila Recreation Club	AACTV2511M	Rs.1,24,49,830/-
Elan Thalir Recreation Club	AAAAE3875A	Rs. 1,51,45,930/-
	Total	Rs. 4,27,37,950/-

The assessee has admitted copies of Form 26AS for Elan Thalir Recreation Club(Pan- AAAAE3875A), Vennila Recreation Club(Pan- AACTV2511M) also Form 26AS of the assessee which are verified. The assessee has also submitted details in respect of Demand drafts paid to TASMAL for the purchase of liquor. It is verified from the details submitted by the assessee that demand drafts were taken for a sum of Rs.3,79,18,810/- towards the purchase of liquor in the name of the above said three concerns. The assessee has also submitted the copy of the affidavit for declaration of purchase and sale transaction of the clubs transacted to Pandian Grama Bank account in the name of G. Anbuselvam. The copy of the affidavits are given by Elanthalir Recreation club and Vennila recreation club Hence it is confirmed that the entire amount of purchase of liquor is for the above said three concerns and the assessee has made a total purchase of Rs. 1,63.52.620/- and tax has been deducted as per provision of Section 200CA of the IT act of the amount of Rs. 1,51,42,190/-and this amount is reflected in Form 26AS

The above remand report is forwarded herewith for kind approval of the Addl. Commissioner of Income-Tax, Non-Corporate Range-2, Madurai so as to submit the remand report to the Commissioner of Income-Tax (Appeal), NFAC, Delhi."



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In rejoinder to remand report, the appellant stated that as the AO accepted his submissions and evidences, the additions may be deleted on both accounts of section 68 as well as section 69C of the Act. The appellant also stated as below:

"Amount of unaccounted purchases of Rs.2,27,76,680/- is purchases of Elanthalir Recreation Club and Vennila Recreation Club. I am ready to file Income tax returns of Elanthalir and Vennila recreation Club during the period of assessment year 2017-2018. So, please delete the above additions."

7.2.3 Thus, the remand report of the AO, submitted after approval of Range head brings out that the additions made on account of unexplained credits of Rs. 60,70,000/- u/s 68 of the Act included sales made on behalf of other two assessees (the two clubs) also & unaccounted purchases of Rs. 2,27,76,680/- u/s 69C of the Act included purchases in the hands of the two clubs. The above also brings out that the sales & purchases made on behalf of the appellant had been disclosed by him in his own return of income and he undertook to file returns of the other two entities (the two clubs) also.

In view of the above discussion, the additions made by the AO, of Rs. 60,70,000/- u/s 68 of the Act & unaccounted purchases of Rs. 2,27,76,680/- u/s 69C of the Act, are hereby deleted. Ground no. 2 & 5 of appeal are allowed.

It is clarified here that the AO is free to take action, as deemed fit, in the hands of the other two assessees (Elanthalir Recreation Club & Vennilla Recreation Club).

7.3 Ground no. 6 of appeal: It is a general ground of appeal and does not require any adjudication.

8. In effect, the appeal is to be treated as partly allowed.

5. Now assessee is in further appeal before us.

6. We have heard the rival submissions and perused the record and orders of the authorities below. In the present case, the Revenue has challenged the deletion of the following additions made by the Assessing Officer in the assessment order passed u/s 143(3) dated 26.12.2019:



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- Addition of ₹60,70,000/- u/s 68 on account of cash deposits during the demonetization period.
- Addition of ₹2,27,76,680/- u/s 69C towards alleged unaccounted purchases.

The assessee, an individual engaged in the sale of alcoholic beverages, filed his return of income for AY 2017-18 declaring Rs.11,97,090/-. The case was selected for scrutiny, and assessment was completed u/s 143(3) with the above additions. The Id.CIT(A) admitted additional evidences under Rule 46A and called for a remand report from the AO. In the remand proceedings, the AO accepted the assessee's explanations and evidences. The Id.CIT(A), based on the AO's report and supporting material, deleted the additions.

7. Our findings on Addition of Rs.60,70,000/- u/s 68:

The assessee deposited cash in SBNs during the demonetization period. The source of the cash deposits was explained to be business sales from three entities viz; Hotel Anbu & Wines Bar (assessee's business), Elanthalir Recreation Club, Vennila Recreation Club. We note that all deposits were routed through the assessee's bank account from which DDs were taken for purchases from TASMAC. The AO, in the remand report, acknowledged that deposits were consistent with business activity and there was no abnormal spike in sales during demonetization. Sales were substantiated with ledgers and bank statements. Hence, the addition u/s 68 was rightly deleted by the CIT(A).

8. Our findings on Addition of Rs.2,27,76,680/- u/s 69C:

The AO had considered the entire TASMAC purchase amount as pertaining to the assessee. However, the Form 26AS and PAN-wise purchases clearly showed:

Assessee: Rs.1.51 Cr

Vennila Club: Rs1.24 Cr

Elanthalir Club: Rs.1.51 Cr



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The assessee submitted affidavits from the clubs and furnished reconciled ledgers. The AO, in the remand report, verified and accepted these facts and did not dispute the club purchases. Thus, the CIT(A) rightly held that purchases to the extent of ₹2.27 Cr could not be taxed in assessee's hands.

9. On Rule 46A:

We find that the Id. CIT(A) properly admitted additional evidences in accordance with Rule 46A. Sufficient opportunity was granted to AO to rebut the evidences in remand. There was no procedural lapse or prejudice caused to the Revenue.

10. We find no infirmity in the well-reasoned and detailed order of the Id.CIT(A), which is supported by the AO's own remand findings. The additions made by the AO were based on mistaken identity of transactions belonging to separate legal entities, which was clarified during appellate proceedings with proper evidence. Accordingly, we uphold the order of the Id.CIT(A) and find no merit in the Revenue's appeal.

11. In result, appeal of the revenue is dismissed.

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

Sd/-

(एस.आर.रघुनाथा)

(S. R. RAGHUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai, दिनांक/Dated: 26th September, 2025.

EDN/-

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