

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' 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 No.1154/Chny/2024
निर्धारण वर्ष /Assessment Year: 2015-16

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

Vs. Rathinam Prabakaran,
39, Narasimmapuram North,
Karur - 639 001.
[PAN: AAIPP 4501B]

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Assessee by
प्रत्यर्थी की ओर से /Revenue by

: Shri N. V. Balaji, Advocate
: Ms. R. Anita, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 09.07.2025

घोषणा की तारीख /Date of Pronouncement

: 29.09.2025

आदेश / ORDER

PER JAGADISH, A.M :

Aforesaid appeal filed by the Revenue for Assessment Year (AY) 2015-16 arises out of the order of Learned Commissioner of Income Tax (Appeals)-19, Chennai [hereinafter "CIT(A)"] dated 05.02.2024 in the matter of assessment framed by the Assessing Officer [AO] u/s. 147 of the Income-tax Act, 1961 (hereinafter "the Act") on 26.03.2022.

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2. There is a delay of 17 days in filing the appeal by the Revenue. The Revenue has filed condonation petition stating the reasons for delay in filing the appeal. We have considered the petition of delay in filing the appeal and satisfied that there was sufficient cause for not filing the appeal within the prescribed time limit. Hence, the delay is condoned accordingly.

3. The assessee is an individual and partner in various firms engaged in the money lending business. The assessee filled his return of income declaring total income of Rs.5,08,180/- on 29.01.2016. The assessment was reopened by issuing notice u/s 148 of the Act, for the reason that the assessee has advanced loan to the tune of Rs. 2 Crores, but the same has not been admitted in the return of income. The assessee during the reassessment proceeding explained that he has not advanced any loan to Shri Seetharaman during the previous year relevant to A.Y 2015-16 in his individual capacity and Shri Seetharaman has already offered the loan amount in his hand before the Hon'ble IT Settlement Commission. However, the A.O did not accept the assessee's explanation and noted that Shri Seetharaman during the settlement proceedings before the Hon'ble IT Settlement Commission had offered amounts of Rs. 1 Crore and

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Rs.1.90 Crores for the A.Y 2016-17 and 2017-18, respectively, which were outstanding, but has not offered the loan of Rs.2 Crores advanced during the previous year relevant to A.Y 2015-16. The A.O therefore made addition of Rs. 2 Crores as unexplained investment u/s. 69 of the Act. Aggrieved by the same, the assessee filed an appeal before the Ld. CIT(A) disputing the addition of Rs. 2 Crores and also raising legal ground that the assessment was made on the basis search material in the case of Shri Seetharaman and therefore, assessment should have been made u/s. 153C of the Act rather than u/s. 147 of the Act. The Ld. CIT(A) on merit as well on legal ground allowed the assessee's appeal. Being aggrieved, the Revenue is in appeal raising the following grounds:

"1. The order of the learned Commissioner of Income Tax (Appeals) is erroneous on facts of the case and in law.

2. The Ld.CIT(A) erred in holding that the action of AO in invoking provisions of Sec.147 is not in accordance with the Act when there is specific provision u/s.153C for opening of assessment in the case of other person based on the evidence collected during the search.

2.1 The Ld.CIT(A) failed to appreciate that the reopening of assessment cannot be held as illegal merely because a special procedure is contemplated u/s.153C and the Appellate Authority has to see whether the requirements of Sec. 148 is satisfied or not. The option of special procedure u/s.153C is within the domain of the department and the non-invocation of special procedure will not vitiate the reopening of assessment based on the said information. The powers and procedures under sections 147 and 153C are different and so long as the conditions for the applicability of the sections are satisfied, the action taken

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thereunder has to be validated and it is not correct to say that action should be taken under another section only.

2.2 The Ld.CIT(A) failed to appreciate that the facts in the case of Karthick P Chidambaram Vs PCIT(202) (7) TMI 393 are different and wherein during the pendency of 147 proceedings, assessing officer having jurisdiction over searched person recorded satisfaction and forwarded the seized materials and the receiving assessing officer u/s.153C also recorded satisfaction and thereupon initiated 153C assessment proceedings and the pending reopening of assessment abated as per law. Therefore the said judgment is not applicable to the facts of this case on hand.

2.3 The Ld.CIT(A) failed to appreciate the Ho'ble Madras HighCourt in the case of Navkar Electronics by order dt. 1.7.2021 in W.P.Nos. 481 & 482 of 2020 held that "The provisions of Section 147 and 148 provide for assessment of income that have escaped assessment. Nowhere in Section 147 are the provisions of Section 153 excluded" and upheld the reopening of assessment u/s.148 initiated based on the information obtained through search.

3. The Ld.CIT(A) erred in deleting the addition of Rs.2,00,00,000/- towards loan amount advanced by the assessee to Shri.Seetharaman during the AY 2015-16 based on the evidence found during the course of search in his residence. The Ld.CIT(A) erred in appreciating that the assessing officer brought out that Shri.Seetharaman offered loan amount of Rs.1,00,00,000 and 1,90,00,000/- for the AY 2016-17 and 2017-18 in his settlement application before ITSC whereas the assessee had advanced loan of Rs.2,00,00,000/- during the assessment year 2015-16 and the source for the said loan remained unexplained.

4. For these grounds and any other ground including amendment of grounds that may be raised during the course of the appeal proceedings, the order of learned CIT(Appeals) may be set aside and that of the Assessing Officer be restored.

4. The Ld. Departmental Representative (DR) has submitted that the assessee has advanced loan to Shri Seetharaman as under:

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<i>Financial Year</i>	<i>Opening</i>	<i>Received</i>	<i>Repaid</i>	<i>Balance</i>
2014-15	--	2,10,00,000	10,00,000	2,00,00,000
2015-16	2,00,00,000	1,00,00,000	--	3,00,00,000
2016-17	3,00,00,000	1,40,00,000	1,50,00,000	2,90,00,000

4.1 The Ld. DR has submitted that Shri Seetharaman has only offered loan amount of Rs.1,00,00,000/- and Rs.1,90,00,000/- for the A.Y 2016-17 & A.Y 2017-18 before the Hon'ble IT Settlement Commission, but has not offered Rs 2,00,00,000/- advanced in F.Y 2014-15, therefore the A.O has correctly brought it to tax. The Ld. DR submitted that the Ld. CIT(A) has failed to take note of the fact that Shri Seetharaman has offered only loan outstanding and he ought to have taken note of the table furnished by the assessee before him during the appellate proceedings, wherein it is very clear that loan amount advanced during the F.Ys 2014-15 to 2016-17 stands at Rs. 4.5 Crores and Shri Seetharaman has offered unaccounted income of only Rs. 2.90 Crores that too only for want of production of the assessee for confirming the loan amount and he has always claimed the loan amount and creditors to be genuine. The Ld. DR therefore submitted that the A.O has rightly added the loan of Rs. 2 Crores advanced by the assessee to Shri Seetharaman during F.Y 2014-15 relevant to A.Y 2015-16 as unexplained income. On legal ground of reopening the assessment u/s 147 on searched material, the Ld. D.R

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has argued that the reason recorded for reopening was not solely based on information obtained during the course of search, but on the basis of order of the Hon'ble Settlement Commission order in the case of Shri Seetharaman. Therefore, the reopening u/s. 147 of the Act can stand on its one even if the reopening based on search information is not considered.

5. The Ld. Authorized Representative (A.R) of the assessee, on the other hand, supported the order of Ld. CIT(A). The Ld. AR has submitted that section 245I provides that every order of settlement passed u/s 245D(4) shall be conclusive as to the matter stated therein and no matter covered by such order shall be reopened in any proceeding under the Act. The Ld. D.R submitted that when the searched party has offered the alleged loan amount as his income before ITSC and the same has been accepted , the same is conclusive in respect of alleged loan transaction and the same cannot be basis for initiating any proceeding under the Act. The Ld. AR also argued that loan mentioned in the seized material is in the name of M/s. Shivalaya, which partnership firm, therefore addition cannot be made in the hand of assessee. The Ld. AR on legal ground made detailed submission

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that assessment on the basis of seized material can be done only u/s 15C , but not u/s 147 of the Act.

6. We have heard the rival submissions and perused the materials available on record. The A.O. has made the addition of Rs. 2 Crores on the basis of information that the assessee had advanced a loan of Rs. 2 Crores to Shri Seetharaman in the previous year relevant to A.Y. 2015-16, source of which is not explained. The Ld. CIT(A) after examining the seized record has noted that Shri Seetharaman had offered Rs. 2.90 Crores for A.Ys. 2016-17 and 2017-18 as his income and the A.O in the assessee's case for A.Y 2016-17 and 2017-18 has not made any addition in respect of the loan transaction in the same table. The Ld. CIT(A), therefore has held that the A.O cannot have different stand on the same transaction in A.Y 2015-16. We find that assessee has never accepted the loan transactions and the same has been assessed in the hand of Mr. Seetaraman in A.Y 2016-17 and A.Y 2017-18, therefore A.O in A.Y 2015-16 cannot hold the same loan transaction pertaining to assessee. The Ld. AR has also brought in our notice that assessee's name is not mentioned in the seized material. We, therefore do not find any infirmity in the order of Ld. CIT(A) in deleting the addition of Rs 2 Crores and uphold the same.

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6.1 As we have deleted the addition on merit, the legal issue regarding the validity of the assessment u/s. 147 of the Act becomes academic and left open.

7. In the result, the appeal filed by the Revenue is allowed.

Order pronounced on 29th September, 2025 at Chennai.

Sd/-
(एबी टी. वर्की)
(**ABY. T. Varkey**)

न्यायिक सदस्य / Judicial Member

Sd/-
(जगदीश)
(**Jagadish**)

लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 29th September, 2025.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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