

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 No.:621/Chny/2025

निर्धारण वर्ष / Assessment Year: 2016-17

DCIT, Central Circle -2(2), Chennai.	vs.	Red Carpet Studio, No.3, Good Ville Court, 16, Bagavatham Street, T.Nagar, Chennai – 600 017.
(अपीलार्थी/Appellant)		[PAN:AARFR-5627-H] (प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Ms. E. Pavuna Sundari, C.I.T.

प्रत्यर्थी की ओर से/Respondent by : Ms. N. V. Lakshmi, Advocate

सुनवाई की तारीख/Date of Hearing : 06.10.2025

घोषणा की तारीख/Date of Pronouncement : 09.12.2025

आदेश /ORDER

PER S. R. RAGHUNATHA, AM :

The present appeal is filed by the Revenue against the order of the learned Commissioner of Income Tax (Appeals), Chennai – 19, [in short 'Ld.CIT(A)'] dated 20.12.2024 for the Assessment Year ['A.Y.'] 2016-17 arising out of the order of the assessing officer passed u/s.144 of the Income Tax Act, 1961 (in short 'the Act') dated 29.12.2017.

2. The grounds of appeal raised by the revenue are reproduced below:

1. *The order of the learned Commissioner of Income Tax (Appeal) is erroneous on the facts of the case and in law.*
2. *The Ld. CIT (A) erred in deleting the additions made towards undisclosed income of Rs.5,50,00,000/- which was found in the materials seized from the premises of M/s. Red Carpet Studios, on the ground that the net profit was recomputed based on the revised books filed by the assessee without giving opportunity to the AO under Rule 46A of Income Tax Rules?*
3. *The Ld. CIT (A) erred in holding that sworn statement of shri P.Ramesh, Managing Partner of M/s. Red Carpet Studios could not be relied upon for the disclosure of undisclosed income on account without appreciating the fact that the sworn statements corroborated the findings of the seized material found during the search proceedings in the case.*
4. *The Ld. CIT (A) erred in deleting the addition made allowance of Rs.2,16,37,819/-, being 10% of the total expenditure of Rs.21,63,78,195/- claimed under various heads on the ground that the AO did not reject the books of account or the a Minimum Guarantee Agreements and did not disprove the evidence submitted by the assessee without appreciating the fact that the onus of proving such expenses booked as genuine rests on the assessee which was not discharge in the present case.*
5. *The Ld.CIT (A) failed to appreciate that the assessing officer has correctly arrived presumption u/s. 132(4A) and 292C of Act in respect of the materials seized during the course of search, which was further strengthened by sworn statement recorded from Shri.P.Ramesh.*
6. *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 Ld. CIT (Appeals) may be aside and that of Assessing Officer may be restored.*

3. The brief facts emanating from records is that the assessee is a partnership firm, engaged in the business of film distribution across Tamil Nadu. A search u/s.132 of the Act was conducted at the premises of the assessee on 30.09.2015 i.e. before completion of the previous year relevant to the impugned A.Y.2016-17. In response to the notice served u/s.153A of the Act, the assessee filed its Income Tax Returns on 01.11.2017, after finalizing the books of accounts, and declaring a total loss Rs.22,747/- for the A.Y. under consideration.

4. During the course of search proceedings, Mr.P.Ramesh, the Managing partner of the firm had agreed that the assessee had earned a profit of Rs.5.43 crores and admitted to offer the same in the hands of the assessee for the impugned year. Thereafter, upon finalizing the accounts, the assessee realized

that the originally it had overstated the profits by including income and expenditure relating to the movie "Maya" in its books of accounts. The assessee claimed before the Assessing Officer (AO) that the income from the movie 'Maya' belonged to Mr.Narayanan Ramasamy (one of the partners' of the assessee) and the same was duly offered to tax in his individual return in PAN - ADUPR8003P. Further, the assessee during the course of assessment proceedings had produced confirmation letter from Mr.N.Ramasamy to that effect. The AO without considering the submissions made by the assessee made an addition of Rs.5.50 crores merely on the basis of statements recorded during the course of search based on unfinalized books of accounts.

5. Furthermore, the AO had also made an adhoc disallowance of Rs.2,16,37,819/- on the entire expenses incurred by the assessee without assigning any reasons for such disallowance.

6. The assessee being aggrieved by the order of the AO, filed an appeal before the Id.CIT(A). The Ld.CIT(A) concluded that the assessee had originally admitted higher profits during the course of search based on incomplete books of accounts. The Id.CIT(A) observed that the assessee had wrongly included the profits from the movie 'Maya' in its books of accounts and the books were later on revised and the income from the movie 'Maya' was included in the books of accounts of Mr.N.Ramaswamy - PAN - ADUPR8003P. The Ld.CIT(A) further observed that since the assessee and Mr.N.Ramaswamy come under the same jurisdictional AO, the AO's contention that he was unable to verify is required to be rejected. Furthermore, the Ld.CIT(A) allowed the appeal since the addition was made by the AO merely on the basis of statements and loose sheets without any corroborative evidence.

7. In respect of the adhoc disallowance of expenditure of Rs.2.16 crores made by the AO, the Ld.CIT(A) held that the assessee incurred substantial expenses towards acquiring distribution rights of movies through Minimal Guarantee Agree ['MGA']. The Ld.CIT(A) held that the said MGAs were before

the AO and the officer without having rejected the MGAs or the books of accounts of the assessee erred in making an adhoc disallowance of expenditure without any basis. The Ld.CIT(A) relying on the judgment of this Tribunal in the case of CMG steels vs ACIT Central Circle 3(2) deleted the adjustment made by the AO by holding as under:

6.3.11 The undersigned has carefully examined the issue under consideration. As evident in the submission made it can be seen that during the financial year under consideration, the appellant prepared, revised, and consolidated its books of accounts, addressing discrepancies and providing clarifications regarding its income and expenditure. Initially, for the period from 01.04.2015 to 30.09.2015, the books declared a net profit of Rs. 4,92,65,443.62/-. However, the movie "Maya" was wrongly accounted for in the appellant's books instead of the books of one of its partners, Sri Narayanan Ramasamy. This error was corrected in the revised books of accounts, where a net profit of Rs. 3,99,24,213.62/- was declared after removing the income and expenditure related to "Maya." The movie's income and expenditure were correctly recorded in the books of Sri Narayanan Ramasamy. For the subsequent period, from 01.10.2015 to 31.03.2016, the appellant declared a net loss of Rs. 3,73,21,660/-. Considering these adjustments, the consolidated books of accounts for the entire financial year reported a net loss of Rs. 22,746.56/-. This loss resulted from the performance of various films distributed by the appellant firm during the year. While movies such as "Bahubali 1," "Kanchana 2," and "Our Naal Koothu" were commercially successful, other movies like "Eli," "Sowcarpet," and "Hello Naa Pai Pesaren" were flops. The high acquisition cost of certain films, like "Vedhalam," also contributed to the losses despite its box office success. Initially, the firm declared a profit of approximately Rs. 4.92 crore for the period ending 30.09.2015, which included the income from "Maya." The appellant also clarified about the inclusion of income from the movie "Maya.". However, it was later revised as the movie's income and expenditure were transferred to the books of Shri Narayanan Ramasamy, who is a partner in the appellant firm and assessed under the partner(s) PAN-ADUPR8003P. To substantiate this, the appellant submitted a confirmation to this effect during the course of assessment proceedings, along with financials demonstrating that the income from "Maya" had already been offered to tax in the hands of Sri Narayanan Ramasamy. The same is appended here under.

CONFIRMATION LETTER

We M/S Thenandal Films having our office at 19/14 Saraswathy Street, Mahalingapuram, Chennai 600 034 do hereby confirm and state that the feature film MAYA was given to M/S Red Carpet Studio for exploitation on distribution basis only for Chengalpet area. The entire collection of the movie amounting to RS.1,62,94,269/- pertains to Thenandal Films only and accounted in our books and offered as income in our Profit and loss account. We have not taken any advance from Red Carpet Studio in this connection.

We are assessed to income tax in PA NO:ADUPR8003P. Central Circle 2(2), Chennai

Date 28.12.2017

Place Chennai

For Thenandal Films
Sd/-
Proprietor
(N.RAMASAMY)

It is significant to bring on record that the partner of the appellant firm Shri Narayanan Ramasamy, who is also the Proprietor of Thenandal Films is also assessed by the same AO i.e. Central Circle-2(2) Chennai Therefore, the AO's observation that no information was submitted, leading to an assessment u/s 144 of the Income Tax Act, is factually wrong and the income from "Maya" cannot be taxed again in its hands of the appellant firm merely because the initial books were maintained at its office.

6.3.12 The loose sheets and pen drive seized during the course of search are important indicators but cannot form the sole basis for the addition in the absence of corroborative evidence. It is a settled principle of law that additions must be based on reliable and verifiable evidence. While the appellant failed to comply with statutory notices issued during the assessment proceedings, the submissions made during the appellate proceedings sufficiently clarify the issues raised. The AO erred in not considering the revised books of accounts and other explanations provided by the appellant. The appellant has rightly relied on the judgment of the Hon'ble Apex Court in the case of Commissioner of Income-tax-III, Pune Vs. Sinhgad Technical Education Society (2017) 84 taxmann.com 290 (SC), which emphasizes that additions cannot be sustained solely on loose sheets or statements without corroborative evidence

6.3.13 In light of the above, the undersigned is of the considered view that the addition of Rs. 5,50,00,000/- made by the AO is unsustainable as it is primarily based on the sworn statement recorded u/s 132(4) of the Act and uncorroborated materials seized during the search. In the present case, the appellant has demonstrated through audited books of accounts and supporting financials that the income from the movie "Maya" was inadvertently recorded in the firm's accounts and was later offered to tax in the hands of Sri Narayanan Ramasamy. The consolidated accounts reflects a net loss for the year. Accordingly, all the grounds raised upon this issue are treated as allowed and the AO is directed to delete the addition of Rs. 5,50,00,000/- made for AY 2016-17.

6.4 Issue No. 2: Disallowance of Rs. 2.16 Crores.

6.4.1 During the course of assessment proceedings, the AO observed in the Profit & Loss account that the assessee firm has claimed huge expenditure under various heads amounting Rs. 21,63,78,195/-. As the assessee did not adduce any substantiating evidences in support of the claim of the expenditure the AO after considering the nature of business and expenditures involved disallowed 10% of the total expenses claimed amount Rs. 2,16,37,819/- and added the same to the returned income.

"Expenditures to the tune of Rs. 21.63 Crores were claimed and in the absence of supporting documents, and considering the nature of the business, 10% of the overall expenditure is added back to income to the tune of Rs. 2. 16 Crores

Like any other firm engaging in similar business, your appellant incurred various expenses in terms of running a company and the details of such expenses were duly submitted as part of the ITR filed. For a film that distributes movies, the main direct expenditure is incurred from the purchase cost of the movie from the producer to distribute the movie through a Minimal Guarantee Agreement (MGA).

The MGA for all the above stated movies that can substantiate the expenditures made towards acquiring the rights of the movie for distribution were duly submitted during the course of the proceedings but again, they were not considered while passing the order u/s 144 of the Income tax Act.

More importantly the books are audited, and without calling for specific details on the expenses, or rejecting the entire books of audited books of accounts or making disallowance based on corroborative evidence substantiating the disallowance, it is not correct on the part of the assessing officer to conclude and add 10% of the total expenses back to income on a baseless and ad-hoc basis and tax the same. In fact all the MGA were already available with the department and once again submitted as part of annexure submitted.

Similarly, MG Agreements from each of the above-mentioned produces were duly submitted earlier and the Ld. Assessing Officer has neither rejected the agreements nor pointed any deficiencies in such agreements letters, nor reached out to the above-mentioned produces officially calling for confirmations on the payments realized and unrealized, which can substantiate the genuineness of the claim.

In this situation, your appellant has provided every possible evidence available to the Hon'ble Income Tax Department to further substantiate the claims, and now the burden of proving otherwise, if any, shifts to the side of the Ld. Assessing Officer. In asupport of the above claim, your appellant could like to cite the below caselaw that was ruled in favor the appellant by the ITAT, Chennai

*Your appellant would like to bring a recent ITAT judgement in support of the above in the case of **M/s. CMG Steels Pvt. Ltd Vs. ACIT Central Circle 3(2)**, Chennai 34, where it quotes.*

“.....Once, the assessee discharges its burden by filing necessary documents then the burden shifts to the AO to prove otherwise. In this case, the AO has made additions only on the basis of statement recorded from third party ignoring various evidence filed by the assessee to prove unsecured loans taken from said parties.....”

In the absence of the above, it may not be valid on the part of the Ld. Assessing Officer to disallow the expenditure claimed under the head of acquisition of the movie on an ad-hoc manner when MG agreements and expenditures towards the publicity and release of the movie in theaters were duly audited and records in the books of accounts, along with realized payments were submitted

More importantly the books are audited, and without calling for specific details on the expenses, or rejecting the entire books of audited books of accounts or making disallowance based on corroborative evidence substantiating the disallowance, it is not correct on the part of the assessing officer to conclude and add 10% of the total expenses back to income on a baseless and ad-hoc basis and tax the same. Therefore, it is brought to the kind attention of the income tax department that, the addition to the tune of Rs. 2,16,37,819/- was based on an ad-hoc manner and deserved to be deleted in this regard.

6.4.2 *The undersigned has carefully examined the issue under consideration. The contention of the appellant is that the appellant is engaged in the business of **film distribution**, where substantial expenditures are incurred towards acquiring*

*distribution rights of movies through **Minimal Guarantee Agreements (MGA)**. These agreements were duly submitted before the AO during the course of assessment proceedings. The AO neither rejected the MGA nor pointed out any deficiency in the agreements. Furthermore, the AO did not call for confirmations from the producers or raise any specific query regarding the expenditures. The appellant's books of accounts are duly audited, and the AO has not rejected the books u/s 145(3) of the Act. Without rejecting the books of accounts, the AO cannot make an ad-hoc disallowance. The appellant has furnished every possible evidence to substantiate this claim, including MG agreements and details of publicity and release expenses. Hence, the onus lies on the AO to disprove the evidence, which he failed to do.*

6.4.3 *The undersigned is of the view that the books of accounts of the appellant were audited and the AO has neither rejected the books of accounts u/s 145(3) of the Act nor pointed out any specific discrepancies or deficiencies therein. In the absence of rejection of the books, an ad-hoc disallowance of 10% of the total expenditure is not justified.*

6.4.4 *The appellant has submitted copies of the Minimal Guarantee Agreements to substantiate the primary expenditure towards acquiring movie distribution rights. The AO has neither disputed the genuineness of these agreements nor provided any reasons to disprove the expenditures claimed therein. The appellant has discharged its burden of proof by submitting the audited books of accounts, MG agreements, and other supporting details. Once the appellant provides sufficient evidence, the onus shifts to the AO to disprove the claim. Reliance is placed on the decision of the Hon'ble ITAT Chennai in the case of **M/s. CMG Steels Pvt. Ltd Vs. ACIT**, in **ITA No. 1985/CHNY/2017 dated 09.06.2021** wherein it has been held that additions cannot be made without disproving the evidence filed by the assessee.*

6.4.5 *At the outset, the AO has made the disallowance purely on an ad-hoc basis without bringing any corroborative evidence or identifying specific defects in the expenditures. Such an approach is unsustainable in the eyes of law. In view of the above findings, it is evident that the disallowance made by the AO is illogical, ad-hoc, and devoid of merits. Therefore, the addition of **Rs. 2,16,37,819/-** made towards disallowance of 10% of the total expenditure is **unsustainable**. Accordingly, all the grounds raised upon this issue are hereby treated as **allowed** and the AO is directed to delete the disallowance of Rs. 2,16,37,819/- made for the AY 2016-17.*

8. Aggrieved by the order of the Ld.CIT(A), the revenue is in appeal before us.
9. The Ld.DR before us contended that the order of the Id.CIT(A) violated the provisions of Rule 46A, since he has allowed the appeal without giving the AO an opportunity as mandated under Rule 46A.
10. Per contra the Ld.AR submitted that there was no fresh evidence that was placed by the assessee before the Id.CIT(A) based on which the appeal was allowed and hence there was no violation of Rule 46A.

11. We have heard the rival contentions and considered the materials available on record. The evidence considered by the Id.CIT(A) while allowing the appeal were part and parcel of records before the AO. The Revenue contends that the Ld. CIT(A) admitted fresh evidence, particularly the revised books and related confirmations, without providing an opportunity to the Assessing Officer as mandated under Rule 46A. On examining the records, we note that all documents relied upon by the Ld. CIT(A) including the revised books, confirmation from Mr.Narayanan Ramasamy, MG agreements, and details filed during assessment were already part of the assessment record. Therefore, there is no new evidence was produced for the first time before the Ld.CIT(A). Hence, we are of the view that the Ld. CIT(A) has adjudicated the matter purely on the basis of material that was available before the AO. We therefore find that there is no violation of Rule 46A in this case. The Ground of appeal No.2 raised by the revenue is therefore liable to be dismissed.

12. In respect of the issue on addition of Rs.5.50 crores made by the assessing officer, the Ld.DR submitted that the same is made on the basis of confessions made by the Managing partner of the assessee during the course of search proceedings. It was further contended by the Ld.DR that loose sheets found during the search support the decision of the AO in making such additions. The Ld.DR further argued before us that section 132(4A) r.w.s 292C of the Act make a presumption against the assessee in respect of books of accounts and materials seized.

13. Per contra, the Ld.AR for the assessee submitted that on the date of search, i.e. on 30.09.2015, which was the middle of the year and books of accounts were not completed on the said date. The Id.AR contended that the confession was made by the Managing partner based on incomplete books of accounts, wherein the assessee had inadvertently included that income from the Movie 'Maya'. The Ld.AR submitted that the movie 'Maya' was distributed under the banner of 'Thenandal Films' and Mr.Narayanan Ramasamy was

proprietor of 'Thenandal Films'. The Id.AR submitted that Mr.Narayanan Ramasamy was also one of the partner of the assessee firm and the income from the movie 'Maya' was inadvertently included in the profit and loss account of the assessee originally. Later on, such error was found out and revised the books of accounts were prepared. The Ld.AR submitted that the confession during the course of search was made on the basis of incomplete books because the search took place in the middle of the year. The Id.AR further submitted that the data available in public domains will also evidence that the movie 'Maya' was in fact distributed by 'Thenandal films'. She further submitted that as even observed by the Ld.CIT(A) that Mr.Narayanan Ramasamy was assessed to tax in the jurisdiction of the same AO as that of the assessee firm. She submitted that the revenue without appreciating that the income is offered to tax in the hands of Mr.Narayanan Ramasamy has filed the present appeal and same is required to be dismissed. She further submitted that the presumption u/s.132(4A) r.w.s 292C is a rebuttable presumption and once the assessee has placed all materials before the AO, the addition cannot be made solely on the basis of sworn statements. She further submitted that the loose sheets cannot form the sole basis of addition in absence of any corroborative evidence.

14. We have heard the rival contentions and perused the materials available on record and gone through the orders of the authorities. A search u/s.132 of the Act was conducted on 30.09.2015 prior to the completion of the relevant previous year. During the search, the Managing Partner, Shri P.Ramesh, made a disclosure of profits of Rs. 5.43 crores based on incomplete books. Loose sheets were also found at the premises of M/s. Red Carpet Studios. Post search, the assessee finalized its books and discovered that income from the movie "Maya", which actually pertained to Mr.Narayanan Ramasamy, partner of the firm and proprietor of "Thenandal Films", had been erroneously included in the books of the assessee at the time of the search. The assessee filed its return under section 153A declaring a loss of Rs. 22,747/-.

15. During the assessment proceedings, a confirmation from Mr. Narayanan Ramasamy was furnished before the AO clarifying that the income from “Maya” was offered to tax in his individual PAN (ADUPR8003P). The AO did not dispute this fact, nor did he verify the records of the individual assessment, even though both the assessee firm and the partner were assessed by the same jurisdictional AO. Despite this, the AO added Rs. 5.50 crores solely on the basis of the sworn statement and seized loose sheets, without establishing that any of the seized materials actually represented undisclosed income of the assessee.

16. The Revenue emphasized that the statutory presumption u/s.132(4A) and 292C of the Act applies to seized documents. We recognize that the presumption is rebuttable, not conclusive. Further, the AO must correlate the seized material with undisclosed income of the assessee. The presumption cannot substitute or override the need for corroboration. We also find that the AO has not correlated any seized loose sheet with undisclosed income of Rs. 5.50 crores. Further the AO has not demonstrated that the seized sheets reflected entries pertaining to the assessee’s income and relied exclusively on the search-time statement which was admittedly based on incomplete books. Once the assessee provided a cogent explanation supported by reconciliation and confirmation from the partner, whose assessment records were available with the same AO, the presumption u/s.292C of the Act stood successfully rebutted. We find that the Revenue has never disputed that the income from “Maya” was offered to tax in the hands of Mr. Narayanan Ramasamy.

17. While a statement recorded u/s.132(4) has evidentiary value, it is a settled law that a sworn statement without corroboration cannot, by itself, justify an addition. A statement made during search, particularly based on incomplete books, cannot override subsequently established and verified accounts. In the present facts of the case that the search occurred mid-year, when books were admittedly incomplete and the assessee’s explanation regarding erroneous

inclusion of "Maya" income is supported by books and confirmations and the Revenue has not rebutted the assessee's explanation.

18. Therefore, in our considered opinion the Ld.CIT(A) correctly held that the addition made solely based on the search-time statement and loose sheets without independent evidence cannot be sustained. Thus, we find no infirmity in the Ld. CIT(A)'s order deleting the addition.

19. As regards the second issue i.e. Ad hoc disallowance of expenditure of Rs.2.16 cores, the Ld.DR submitted that the disallowance ought to be upheld since the onus to prove the genuineness of expenditure lies with the assessee. She submitted that the assessee has not proved the correctness of expenditure incurred and hence the disallowance made by the AO is required to be upheld. On contra, the Ld.AR submitted that the AO has made the above disallowance on ad hoc basis, without assigning any reasons for such disallowance. She submitted that neither the MG agreement nor the books were rejected by the assessing officer. Therefore, there is no infirmity in the order of the Id.CIT(A) and needs to be upheld.

20. We have heard the rival contentions and perused the materials on record. The AO has neither rejected the books nor the MG agreement and has merely made ad.hoc disallowance without any basis. The AO made a flat 10% disallowance on total expenditure of Rs. 21.63 crores without citing any defect in the books or in the MG Agreements. The assessee's primary expenditure relates to acquisition of distribution rights under Minimum Guarantee Agreements (MGAs). The MGAs were available before the AO, and were never rejected. The AO has not invoked section 145(3) of the Act and rejected the books of accounts. Further, no specific expenditure was shown to be bogus, excessive, personal, or unsubstantiated. Therefore, a pure ad-hoc disallowance is unsustainable in law, as held in multiple Tribunal decisions, including *CMG Steels v. ACIT*, ITA No.1985/Chny/2017 dated 09.06.2021 (Chennai Trib.) relied upon by the Ld.CIT(A). Hence, we are of the firm view that where the

books are accepted, and where no basis is given for the ad-hoc disallowance, such an addition cannot be upheld. The Revenue has also not demonstrated before us how the Id.CIT(A)'s findings are erroneous. Accordingly, we uphold the deletion of the disallowance by dismissing the corresponding grounds raised by the revenue.

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

Order pronounced in the open court on 09th December, 2025 at Chennai.

Sd/-

(एबी टी वर्की)

(ABY T VARKEY)

न्यायिक सदस्य/Judicial Member

Sd/-

(एस. आर. रघुनाथा)

(S. R. RAGHUNATHA)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 09th December, 2025

SP

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