

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' 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.2776/Chny/2025
&
Stay Petition No.99/Chny/2025
निर्धारण वर्ष/**Assessment Year: 2017-18**

K. Vinothkumar, 35, Dhaksha Village Villas, Rim Tech Nagar, Thondamuthur Road, Vadavalli, Coimbatore-641 046. [PAN: AGBPV 3902 B]	v.	The ITO, Non-Corporate Ward-2(4), Coimbatore.
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.S. Kaarthick, Adv.
प्रत्यर्थी की ओर से /Respondent by	:	Ms.R. Anitha, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	02.12.2025
घोषणाकीतारीख /Date of Pronouncement	:	28.01.2026

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter referred to as "the Ld.CIT(A)"), Delhi, dated 01.08.2025 for the Assessment Year (hereinafter referred to as "AY") 2017-18. The Stay Petition is against the demand raised pursuant to the impugned action of the Ld.CIT(A) (supra).



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2. The grievances of the assessee/K.Vinothkumar is regarding few additions made by Assessing Officer (AO), which were confirmed by the First Appellate Authority/CIT(A). Brief facts regarding the impugned additions as noted from the written-submission of the Ld AR of the assessee are noted as under;-

(i) ADDITION I – Rs.8,05,000/-

The AO asked the assessee to prove the source & nature of deposit of huge cash/SBNs deposited in his bank-account, during demonetization, to which assessee explained it by breaking the total deposit in to several amounts. Out of which the assessee explained that deposit of Rs.8,05,000/- in SBNs was out of current year income & savings, **(i.e. Past-savings & Income)**. And in this respect explained that he was engaged in various businesses such as real estate, second hand car dealing, money lending, etc; and the source of such deposit [of Rs.8,05,000/-] was out of his previous year income and savings arising out of his business ventures supra. In order to prove the veracity of the explanation, according to assessee he submitted his bank account statements, contract expenses ledger, interest receipt ledger and purchase advance ledger before the AO. But according to him, the AO overlooked the same and without discussing why he rejected his explanation as well as the proof made addition of Rs.8,05,000/- on the plea that assessee failed to produce satisfactory evidence regarding source of cash deposit. On appeal by the assessee before the First Appellate Authority/CIT(A), he merely confirmed the impugned addition, without application of mind, and without stating the reason why he is rejecting documentary evidences filed by assessee to substantiate the source & nature of SBNs, which impugned action of the Appellate Authority is bad in law and pleaded for one more opportunity before Ld CIT(A) to decide on merits by passing a speaking order after considering the explanation of assessee and the relevant documentary evidences filed by assessee to substantiate the deposit of SBNs each additions while passing the order.



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(ii) ADDITION II - Rs.8,55,000/- & ADDITION V - Rs.33,76,236/-

The AO asked the assessee to prove the source & nature of these deposit of Rs.8,55,000/- & Rs.33,76,236/- in SBNs in his bank-account, which according to assessee was out of '**Re-deposit made out of earlier withdrawals**'. The AO didn't accept it, on the ground that the assessee did not produce cash flow statement or cash book, even though there was sufficient cash available at the hand of the appellant for re-deposit. So, he rejected the explanation of assessee and made additions, which was confirmed by Ld CIT(A). According to Ld AR, though the Ld CIT(A) didn't dispute the fact that there was sufficient cash available at the hand of the assessee for re-deposit, but according to Ld CIT(A) there was no direct linking between the prior withdrawals and subsequent deposits. The impugned action of Ld CIT(A) is assailed by assessee on the ground that even though assessee discharged the burden to prove the source & nature of this deposit of Rs.8,55,000/- & Rs.33,76,236/- by adducing evidence that both deposits were made out of the cash withdrawals made during the year under consideration and filed in support of such an explanation relevant evidences, [viz the bank statements evidencing the cash withdrawals and deposits], which were over-looked by both the AO as well as the Appellate Authority, which omission vitiates the impugned additions. According to assessee, documents produced by the appellant would very well establish that there were significant withdrawal totalling around Rs.82,00,000/- during relevant year, which in-turn would establish the fact that the appellant had sufficient cash at hand to re-deposit. Thus, according to assessee, the deposits in question are preceded by withdrawals made in the relevant year. Therefore, according to assessee, he has discharged the burden to prove the source & nature of these deposit of Rs.8,55,000/- & Rs.33,76,236/-, which both the AO as well as the Appellate Authority failed to appreciate in the proper perspective, which action is arbitrary and untenable.

(iii) ADDITION of Rs.33,76,236/-. [Not SBNs]

Further according to Ld AR, the AO made an addition of Rs.33,76,236/- which according to him was out of the deposits made during the year under consideration other than what was deposited during the demonetisation period [not SBNs]. According to assessee, he deposited the amount out of the previous withdrawals made during the year and submitted the bank account statements and cash book entries to show that he had sufficient



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cash at hand to be re-deposit in support of his contention. The AO as well as the Ld CIT(A) didn't examine the documents in light of assessee's explanation that he had sufficient cash to re-deposit, and therefore, Ld CIT(A) erred in confirming the adverse view taken by AO and brought to our notice the observation of the Hon'ble Karnataka High Court in the case of S.R. VentakaratnamVs CIT, Karnataka-I & Others 127 ITR 807, wherein it was held that once the assessee discloses the source as having come from the withdrawals made on a given date from a given bank, it was not open to the revenue to examine as to what the assessee did with that money and cannot choose to disbelieve the plea of the assessee merely on the surmise that it would not be probable for the assessee to keep the money unutilized.

ADDITION III – Rs.3,04,75,000/- and ADDITION IV – Rs.30,50,000/-

1. Likewise, the AO asked the assessee to prove the source & nature of the deposit Rs.3,51,85,000/- during the demonetisation period, which assessee explained that "out of the deposit Rs.3,51,85,000/-, a sum of Rs.2,84,00,000/- belongs to Mr Mukesh Kumar, which fact according to assessee was verified by Revenue, which crucial fact has been conveniently ignored by the AO as well as the Ld CIT(A), which omission vitiates the impugned action of Ld CITA).

2. Likewise, the AO asked the assessee to prove the source & nature of the deposit of Rs.43,25,000/-, which according to assessee was out of the advances received from various parties for purchase of 'assets' which in this case is a second-hand car. According to assessee, he submitted the details of the persons who had advanced him cash in respect of second- hand car purchase before the AO [i.e.name, address and PAN of each customers]. But, for the persons who were not having PAN, the name and address details were given along with confirmation letters. Further, according to assessee he also submitted 'Purchase Advance Ledger' in support of his claim, but according to assessee, the authorities below failed to consider the documents and rejected the same on the ground that the confirmation letters were all identical in stereotyped form, which according to assessee cannot be a ground to reject the confirmation letters issued by the various parties. Further according to assessee if the parties didn't respond to the notice [issued by AO] to them, the assessee cannot be faulted, when the confirmation letter was issued by them.



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3. Likewise, the AO asked the assessee to prove the source & nature of the deposit of deposit of Rs.8,00,000/-, which according to assessee, was made from the 'sale proceeds of jewels' of the assessee which was already offered as 'income as LTCG' while filing the returns which was accepted and tax paid. The AO erred in not considering the asseese's explanation and erroneously added the same to the income of the assessee's as unexplained money even though the same has already been offered to tax in his returns. Therefore again bringing to tax the same tantamount to double taxation and hence the Ld CIT(A), erred in confirming the action of AO, which fact would this would demonstrate that the both authorities did not apply their mind properly to the facts of the case and failed to consider the replies and the documents submitted by the assessee in proper perspective.

3. It is noted that assessee had filed ITR on 26.03.2018 for AY 2017-18, declaring total income of Rs 14,80,520/-, which ITR was selected for "Complete- Scrutiny". The AO noted that assessee had deposited huge amount of cash in his bank-account during the current year including the period of demonetization, which was asked to be explained, which according to AO, assessee couldn't explain satisfactorily the nature & source of it, so AO drew adverse view against the cash deposits and computed the total income at Rs 4,00,41,756/- in place of returned income of Rs 14,80,520/- by making five (5) addition totaling Rs 3,85,61,236/ as unexplained u/s 69A of Income Tax Act 1961 (herein after 'the Act'), which action of AO, the assessee challenged before Ld CIT(A) by raising twelve (12) grounds, which were dismissed by Ld CIT(A). Aggrieved the assessee is before us, and at the outset pointed out that Ld CIT(A) failed to consider the explanation and relevant documents



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filed by assessee to prove the nature & source of cash-deposits including the SBNs deposited during demonetization, which action is against the principles of natural-justice and vitiates the impugned action of Ld CIT(A). In order to buttress such a contention the Ld AR brought to our notice the action of Ld CIT(A) confirming Rs.2,84,00,000/- out of Rs 3,85,61,236/ added u/s 69A of the Act, which action first we will examine.

4. Brief facts on the issue of addition of Rs.2,84,00,000/-, is that assessee being a real-estate agent, was approached by a customer named Mr. Mukeshkumar (owner of M/s.Lakshmi Jewellery) who took his service and gave him an advance of ₹3.5 Crs. in September, 2016, for purchasing an immovable property. Unfortunately, after that event, the Government of India declared demonetization of ₹500/- & ₹1000/- currencies [Specified Bank Notes (in short "SBNs")] in the month of November, 2016. In the light of the event of demonetization, the assessee requested Shri Mukeshkumar to take back the advanced amount of ₹3.5 Crs., but Shri S. Mukeshkumar took back from assessee only ₹56,00,000/- [out of ₹3.5 Crs] and asked him (assessee) to deposit balance amount of ₹2.84 Crs. (sic) [*balance should be Rs 2.94 cr*] in his bank account i.e. assessee's bank account. And then also directed the assessee to purchase gold bullion worth the balance amount i.e. ₹2.84 Crs. which according to the assessee, he purchased and passed on to Shri



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S. Mukeshkumar. Later, the assessee filed the ITR on 26.03.2018 wherein he declared ₹14,80,520/- which ITR was selected for complete scrutiny and during the assessment proceedings, the AO noted that assessee during the relevant year assessee had deposited cash in his bank-account including SBNs. So, the AO asked the assessee the nature and source of cash as well as the SBNs wherein assessee inter alia narrated the relevant fact regarding deposit of ₹2.84 Cr. (supra) that it belonged to Shri S. Mukeshkumar. According to the assessee, the AO enquired from Shri Mukeshkumar, who admitted having given him ₹3.5 Crs out of which, the assessee had deposited ₹2.84 Crs in assessee's bank account. Despite Shri Mukeshkumar admitting the ownership of ₹2.84 Crs. [as deposited in assessee's bank account during demonetization], still the AO made addition u/s.69A of the Act, inter alia the said amount of ₹2.94 Crs. out of Rs 3,85,61,236/ u/s.69A of the Act made in the hands of assessee, which according to the assessee is erroneous. In order to support the aforesaid submissions, the Ld.AR brought to our notice that the assessment order passed by the AO/NFAC in the case of Mr. S.Mukeshkumar dated 30.03.2022 for AY 2017-18 wherein the AO is noted to have observed as under:

Shri S. Mukeshkumar also admitted that the cash of Rs. 3.5 crores belongs to him and also confirmed the contents of the statements given by Shri Vinothkumar. When, Shri Mukeshkumar was asked to explain the source for Rs. 3.51 crores, he submitted that the above cash was derived out of the unaccounted sale of jewellery and diamonds. A sum of Rs.79.86 lakhs was



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received from the sale of 2 carats of inherited diamond and balance amount was out of accumulation of unaccounted sale and purchase of old diamond jewellery during the last years. Shri S. Mukeshkumar admitted the amount of Rs. 3.51 crores as income from the sale of unaccounted jewellery and diamonds and offered the same for taxation for the Asst. Year 2017-18 under the PMGKY scheme. But Shri S. Mukesh Kumar had not come forward within the time limit to avail the scheme. But has filed the Return of Income for the assessment year 2017-18 declaring an income of only Rs. 12,08,090/- and paid the tax of Rs. 2,09,370/-.

5. From perusal of the action of the AO of Shri S. Mukeshkumar, it reveals that the AO asked him [Shri S. Mukeshkumar] to explain the nature & source of ₹3.5 Crs. advanced to assessee [Shri K. Vinothkumar]. Pursuant to it, Shri S. Mukeshkumar gave the explanation supra which was not to the satisfaction of the AO, so he made an addition of ₹3.5 Crs. u/s.69A of the Act in the hands of Mr. S.Mukeshkumar by assessment order dated 30.03.2022 which addition made according to the assessee includes the SBNs deposit in his bank account of ₹2.84 Crs. (in assessee's bank account). On the same facts, according to assessee, the impugned action of Ld CIT(A) confirming addition of ₹2.84 Crs, in his hands also tantamount to double addition. Further, he brought to our notice that the first appeal against the assessment order dated 30.03.2022 in the case of Mr. S.Mukeshkumar [PAN: BVMPM 5064 L] is still pending before the Ld.CIT(A)/NFAC and therefore prayed for clubbing of both the appeals so that there will be no double addition.

6. Per contra, the Ld.DR couldn't controvert the aforesaid facts in the light of the assessment order framed in the case of Mr. S.Mukeshkumar



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(supra). Since the aforesaid facts are not disputed to the extent of ₹2.84 Crs. deposited during the demonetization and despite the assessee brought to the notice of the AO that the nature and source of the same [advance for purchase of immovable property from Mr. S.Mukeshkumar] and the AO is noted to have conducted enquiry by summoning Mr. S.Mukeshkumar [owner of M/s. Lakshmi Jewelry, Coimbatore] has curiously rejected the explanation and added the same in the hands of assessee as well, which action we cannot countenance, in the light of the action of AO making addition in the hands of Mr. S.Mukeshkumar after enquiry wherein Mukeshkumar confirmed that ₹3.5 Crs. was given to the assessee as advance for purchase of immovable property during September, 2016 and since the deal didn't fructify and the demonetization was declared, he took back only ₹56 lakhs and asked the assessee to deposit the balance cash in his bank account i.e. ₹2.84 Crs. and directed him to purchase bullion which he later did by purchasing bullion from SS Bullion, Srinidhi Gold, Prathip Jewellers & Vaibhav Gems. And the AO of Shri S. Mukeshkumar is noted to have made an addition of ₹3.5 Cr. inter alia in the hands of Mr. S.Mukesh Kumar u/s.69 of the Act. Taking note of the aforesaid events and for the reasons stated therein in the assessment order dated 30.03.2022 in the hands of Mr. S.Mukeshkumar, despite, the assessee has been able to discharge the burden of proof regarding deposit of ₹2.94 Crs. by explaining the nature



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and source of SBNs as from Mr. S.Mukeshkumar, the AO of the assessee is noted to have made an addition of Rs 3,85,61,236/ u/s.69A of the Act which includes ₹2.84 Crs. from Shri S. Mukeshkumar. The aforesaid facts show that ₹2.84 Crs. has suffered tax both in the hands of Mr. S.Mukeshkumar as well as the assessee. In the light of the aforesaid facts, the assessee's plea that since the first appeal of Shri S.Mukeshkumar is still pending before the Ld.CIT(A), the assessee's appeal may be set aside back to the file of the Ld.CIT(A) and decided together to avoid double taxation of ₹2.84 Crs is found reasonable. Considering the overall facts and circumstance of the case, for the interest of natural justice and fair play, we set aside this issue back to the file of Ld CIT(A), with a direction to decide this issue along with the appeal of Mr. S.Mukeshkumar [**PAN:** BVMPM 5064 L]. In other words both appeals of assessee [**PAN:** AGBPV3902 B] as well as that of Mr. S.Mukeshkumar be decided together to avoid double taxation of ₹2.84 Crs as contented by assessee supra.

7. Coming to the other issues, the Ld AR asserted that the Ld CIT(A) has ignored to examine and appreciate relevant material/submission which action is in violation of Natural justice. Be that as it may, since we have restored the aforesaid issue back to the Ld.CIT(A), we set-aside the impugned order of the Ld.CIT(A) and restore the appeal back to the



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K. Vinothkumar

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Ld.CIT(A) to be decided de-novo. The assessee is directed to participate in the appellate proceedings without fail and produce documents relevant to support the grounds of appeal filed by the assessee, and the Ld CIT(A) to pass speaking order on each grounds as contemplated u/s 250(6) of the Act.

8. In the result, appeal filed by the assessee is allowed for statistical purposes. In the light of our action supra, Stay Application is infructuous and so, dismissed.

Order pronounced on the 28th day of January, 2026, in Chennai.

Sd/-
(एस. आर. रघुनाथा)
(S.R.RAGHUNATHA)
लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 28th January, 2026.
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