

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'D' BENCH, CHENNAI**

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

आयकर अपील सं./ITA Nos.:3342 to 3344/Chny/2018

निर्धारण वर्ष / Assessment Years: 2011-12 to 2013-14

|  |     |   |
|--|-----|---|
| <b>Shri. D. R. Balakrishna Raja,</b><br>9/16, Venkatesan Street,<br>T.Nagar,<br>Chennai – 600 017. | vs. | <b>ACIT,</b><br>Central Circle -3(3),<br>Chennai. |
| <b>[PAN:AGWPD-2354-E]</b><br>(अपीलार्थी/Appellant)   |     | (प्रत्यर्थी/Respondent)                           |

आयकर अपील सं./ITA Nos.:91 to 94/Chny/2019

निर्धारण वर्ष / Assessment Years: 2011-12 to 2014-15

|   |     |   |
|---|-----|---|
| <b>DCIT,</b><br>Central Circle -2(4),<br>Chennai. | vs. | <b>Shri D. R. Balakrishna Raja,</b><br>9/16, Venkatesan Street,<br>T.Nagar,<br>Chennai – 600 017. |
| (अपीलार्थी/Appellant)                             |     | <b>[PAN:AGWPD-2354-E]</b><br>(प्रत्यर्थी/Respondent)  |

Assessee by : Shri. K.G.Raghunath, Advocate

Department by : Shri. A R V Sreenivasan, CIT.

सुनवाई की तारीख/Date of Hearing : 27.10.2025

घोषणा की तारीख/Date of Pronouncement : 19.01.2026

**आदेश / O R D E R**

**PER BENCH:**

These appeals by assessee and revenue arises out of common order passed by learned Commissioner of Income Tax (Appeals)-19. Chennai (in short "the Id.CIT(A)") on 08.10.2018 in the matter of separate assessment framed by the Assessing Officer for the Assessment years (A.Y.) 2009-10,

2010-11, 2011-12, 2012-13 and 2013-14 against the order of Assessing Officer u/s. 144 r.w.s 153A of the Income Tax Act, 1961 (in short 'the Act') and for the A.Y. 2014-15 u/s.144 of the Act all are dated 31.03.2016.

2. The assessee is in appeal for A.Ys.2011-12 to 2013-14 whereas the revenue is in further appeal for A.Ys.2011-12 to 2014-15. The facts as well as issues are admittedly substantially identical in all the A.Ys. First, we take up cross-appeals filed by the revenue for A.Y.2011-12 which arises out of a common order passed by Id.CIT(A).

3. At the outset, we find that there is a delay of 3 days in filing the appeals by the revenue, for which the revenue has given the reasons for delay. After considering the reasons stated by the revenue and also hearing both the parties, we find that there is a reasonable cause for the revenue in not filing appeals on or before the due date prescribed under the law and thus, in the interests of justice, we condone delay in filing of appeal and admit the appeals filed by the revenue for adjudication.

4. The grounds raised by the assessee are as under: -

*1. The order of the Commissioner of Income tax (Appeals) is contrary to law, facts and circumstances of the case.*

*2.1 The Commissioner of Income-tax (Appeals) erred in upholding the action of the assessing officer in assuming jurisdiction under section 153A of the Act*

*2.2 The Commissioner of Income tax (Appeals) ought to have appreciated that in the absence of incriminating material found during search, the Assessing Officer cannot frame an assessment under section 153A of the Act.*

*2.3 The Commissioner of Income tax (Appeals) ought to have appreciated that the Assessing Officer has exceeded his jurisdiction by considering other issues, which were not part of the search proceedings.*

*2.4 In any event, the Assessing Officer is precluded from passing assessment order under section 153A of the Act in respect of unabated assessments.*

*3.1 The Commissioner of Income tax (Appeals) ought to have appreciated that relinquishment of personal right is a capital receipt not subject to income tax being a personal right of the assessee.*

3.2 The Commissioner of Income tax (Appeals) erred in holding that while computing the long-term capital gain on relinquishment of personal right, the cost of acquisition to be treated as Nil

3.3 Without Prejudice, the Commissioner of Income tax (Appeals) ought to have appreciated that there is no cost of acquisition & therefore the same cannot be treated as Nil for the purpose of S.48 rws 49.

3.4 The Commissioner of Income tax (Appeals) ought to have appreciated that there is no cost, the long-term capital gain computation mechanism fail

4.1 The Commissioner of Income tax (Appeals) erred in confirming the disallowance of agriculture income of Rs. 10,000/- under section 56.

4.2 The Commissioner of Income tax (Appeals) estimate of agricultural income is very low.

4.3 The Commissioner of Income tax (Appeals) ought to have appreciated that the agricultural income offered by the Appellant is correct and reasonable considering the agricultural land held during the subject assessment year."

5. The grounds raised by the revenue are as under:-

1. The order of the CIT(A) is erroneous on facts of the case and in law.

2. The learned CIT(A) erred in deleting the entire addition of unexplained cash credit u/s.68 though the assessee failed to explain credits to the extent of Rs.3,16,85,000/

2.1 The id. CIT(A) ought to have appreciated the fact that the assessee had not submitted even the basic details of the creditors let alone confirmations from them.

2.2 The Ld.CIT(A) also failed to follow the decision of the Punjab & Haryana High Court in the case of Sudhir Kumar Shah (HUF) vs. CIT-III, Ludhiana) [2014] 224 Taxman 178 and SLP Dismissed [2016] 239 Taxman 264 (SC), wherein it is held that since assessee failed to give list of persons who advanced cash to him along with their confirmation in respect of said cash credits, impugned addition was to be confirmed. The onus was upon the assessee to explain the nature and source."

3. The Id. CIT(A) erred in deleting the addition made by the Assessing Officer of Rs.20.00 crores as Income from Other Sources

3.1 The Id. CIT(A) erred in allowing the assessee's appeal wherein he has claimed as Long Term Capital Gains of Rs.20 crores received for the extinguishment of his rights in Mis. Sola Raju Dhanushkodi Raja Thayammal Educational Charitable Trust vide his statement dated 18.05.13, without appreciating the fact that the trustee governing the trust in a fiduciary capacity

cannot claim any right or entitlement let alone request that Rs.20 crore be treated as LTCG when AO has rightly treated the same as Income from Other Sources.

3.3 The Id. CIT(A) has not considered the fact that Sec 13(1)(c) states that exemption under section 11 will not be available in cases of violation of the provisions of section 13 of the Act specifically sec.13(1)(c) "if under the terms of the trust or the rules governing the institution any part of such income enures directly or indirectly for the benefit of the author of the trust or the founder of the institution or any relative of such author or founder, and, where the author of the trust or the founder of the institution is a Hindu undivided family, any part of such income ensures directly or indirectly for the benefit of any member of the Hindu undivided family or any relative of any member of the family"

3.4 The Id. CIT(A) has not appreciated the fact that the judgement of Kerala High Court in the case of Alagappa Child Centre Vs CIT (1997) 226 ITR 211 (Ker), wherein the trust purchased a refrigerator for its own use, however, before the completion of the trust buildings, the trust kept the said refrigerator at the residence of the managing trustee of the trust. Exemption to the trust under section 11 of the Act, was denied on the ground that use of refrigerator by the managing trustee was violation of the provisions of section 13(2)(b) of the Act.

4.1 The Id. CIT(A) erred in directing the Assessing Officer to delete the addition made on account of rejection of agricultural income amounting to Rs 4,80,000/-.

4.2 The Id. CIT(A) erred in calculating the agricultural income merely on the basis of agricultural land owned by the assessee, in spite of the fact that the assessee has not given any details of agricultural income during the course of assessment as well appellate proceedings.

4.3 The Id. CIT(A) has not taken cognizance of the decision of the jurisdictional High Court's decision in the case of CIT v. Lalichan (TCA No. 504 of 2018 dated 11.10.2018) to the effect that carrying on agricultural activities on a land is indispensable to classify a land as agricultural in character.

5. The learned CIT(A) erred in deleting the entire addition of Rs.14.21 crores and Rs.1.51 crores treating it as income from sale of agricultural land, whereas the assessing officer in his remand report has held that the assessee has admitted the same as Long Term Capital gain and has also not furnished any evidence for the same being Agricultural land required to claim the income as exempt by furnishing documentary evidence of the distance from the nearest municipality or the population as per the latest census.

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 learned CIT(Appeals) may be set aside and that of the Assessing Officer be restored."

6. On perusal of grounds of appeal and orders of the authorities, the issues raised in assessee's appeal is computation of capital gains and disallowance of agricultural income. The subject matter of revenue's appeal is deletion of

addition made by AO u/s.68 of the Act, computation of capital gains and agricultural income.

7. The brief facts of the case are that pursuant to search action u/s.132 of the Act in the case of BKR group of cases on 16.05.2013, the assessee was also covered under search. During the course of assessment proceedings, notice u/s.153A of the Act was issued to the assessee on 29.11.2013. In response, the assessee offered original return of income as filed on 19.07.2012 declaring a total income of Rs.17.02 Lakhs. Further statutory notices u/s.143(2) and 142(1) of the Act were also issued from time to time calling for details from the assessee in support of the return of income filed.

8. During the search operations, certain documents were seized from the residence of the assessee as per Annexure AV/LS/Pages 1-117 viz.

- (i) A Trust deed dated 30.11.2001
- (ii) Amendment of trust deed dated 09.05.2011
- (iii) Supplementary Trust Deed dated 14.10.2010 between Shri Balakrishna Raja and Shri G.Rajendran (GR).

9. Considering these documents seized, certain additions were made in the hands of the assessee which form the part of cross-appeals before us.

10. During the search, few financial statements were found and a statement from Chartered Accountant Shri Mehta was recorded u/s.132(4) of the Act. The issue of capital introduction was confronted to him. Subsequently, the assessee's statement was also recorded on 18.05.2013 wherein he was not able to explain the capital introduction in his various firms. He conceded to have received amount of Rs.20.00 Crores from Shri GR as compensation for resigning from the post of trustee of a trust by the name M/s.Sola Raju Dhanushkodi Raja Thayammai Educational Charitable Trust (SRDRTEC). It was noted by AO that the trust owned land and it was running educational

institutions. The relevant portion of the statement has been curled out by the Assessing Officer in the assessment order.

11. In reply to Q. No.11, it was stated by him that the trust was taken over by Shri G.Rajendran (founder of M/s.GRT Jewellers), his two sons and their group. The value of the educational institutions including the property, at the time of transfer of trust, was stated to be around Rs.25.00 Crores including the land. In reply to Q. Nos. 13 to 15, it was stated as under: -

*Q.No.13 Was there any term of agreement which stipulates payment to you by the new Trustees or did you receive any payment that was not mentioned in the agreement? If yes, please explain the mode of payment-whether it was done by cash or cheque?*

*Ans. The Trust property was built on 58 acres of land purchased in the name of the Trust. I also had 12 acres of agriculture land purchased in my name out of my personal earning. The lands held in my personal name were sold to the Trust and the new Trustees in various documents on various dates. Details of such Sale Deeds and payments will be furnished later. The new Trustees took over the entire assets and liabilities of the Trust. As I have already stated, the value of the Trust is around Rs.20 Crores. I remember that the liability of the Trust was also around Rs.20 crores. In order to pave the way for takeover of the Trust, Shri G.Rajendran and others paid me around a sum of Rs.20 crores in cash.*

*This payment was not part of the MOU*

*Q.No. 14 Please state whether you received the payment in cash or by cheque.*

*Ans. This payments were received in cash.*

*Q.No. 15 Did you receive these payments personally or through a third party?*

*Ans. The above amount of Rs.20 crores was received in four instalments by me. These payments were always made by the staff of Shri G.Rajendran.*

12. At the time of operating a prohibitory order on 12.07.2013, the assessee was again questioned on the capital which remained unexplained. The assessee accepted an additional sum of Rs.14.21 Crores as undisclosed income and offered the same as 'income from other sources'. Thus, the total disclosure made by the assessee amounted to Rs.34.21 Crores. The sum of

Rs.14.21 Crores was stated to be received by him from Shri G.Rajendran as cash settlement for sale of agricultural lands over and above the cheque payment as per registered document. The reply to Q. No 7 was as under:

Q.No. 7 Now I am showing you sworn statement of Shri Mukesh Mehta, Chartered Accountant recorded on 17.05.2013. Please go through the same in detail. After going through this statement kindly explain the nature of amount of Rs.42.71 crores mentioned in Q.No.14 and explain why it shall not be treated as undisclosed income?

Ans: I have gone through the sworn statement of Shri Mukesh Mehta, Chartered Accountant recorded on 17.05.2013. In total I have received a sum of Rs.37.37 crores in cash over and above the amount disclosed in my books of accounts. I am now explaining the breakup of the amount received both in cash and through cheque Cash Rs.20 crores in connection with my resignation from M/s.Sola Raju Dhanuskodi Raja Thayammal Educational Charitable Trust and Rs.14.21 crores in cash for the sale of personal lands forming 12 acres in Tiruttani and Rs.3.16 crores through cheques for the sale of personal lands forming 12 acres in Tiruttani which is over and above the compensation for relinquishment of trust were received from Shri G Rajendran, founder GR Thangamaligai Group.

Out of this amount of Rs.37.37 crores, I have already admitted Rs.20 crores and have also filed an affidavit accepting the same. I have already disclosed Rs.3.16 crores as sales consideration for Tiruttani land in my ROI. The balance of Rs.14.21 crores received on sale of land at Tiruttani is being offered to tax.

Apart from this I have received Rs.5.34 crores as given below-

I received Rs.1.84 crores as loan from Shri G Rajendran which has been paid back and around Rs.3.50 crores as loans from various parties. The evidence of which I shall furnish on or before 22nd July 2013 failing which I agree that it may be treated as additional income. I was finding it difficult to handle this cash and I needed these amounts to be brought into my books of accounts so it could be invested in businesses run by me. The same amounts have been introduced in the form of Share capital and premium and loan creditors to which Shri Mukesh Mehta, Chartered Accountant in the statement recorded on 17.05.2013 was referring to in Q.No. 14.

Therefore, with an intention to buy peace with the department I am offering the entire amount of Rs.34.21 crores as undisclosed income in the hands of the various persons in whose books the credits are made This offer includes Rs.20 crores that I have already accepted and filed affidavit. Since I am voluntarily offering this amount, this may be considered as full disclosure and I request that a lenient view may be taken so that the various entities in whose hands the additional incomes are offered are not subjected to penal provisions of the Income-tax Act and immunities provided under the act may be given to me.

13. In summary, the assessee disclosed a total amount of Rs.34.21 crores. Of this, Rs.20.00 crores pertained to consideration received for resigning from

the Trust, and Rs.14.21 crores related to the sale of 12 acres of personal land in Tiruttani. Since these amounts were not included in the returned income, they were treated as undisclosed income and added to the assessee's taxable income for Assessment Year 2011-12.

14. The Assessing Officer also made an addition in respect of Sundry Creditors. The assessee had shown Sundry Creditors amounting to Rs.21.61 crores in its financial statements; however, since no supporting details were furnished, the AO treated this amount as unexplained cash credit u/s.68 of the Act. A further addition of Rs.1.51 crores was made towards undisclosed sale consideration, based on the response to Question No. 7 (supra), wherein the assessee admitted to receiving Rs.3.16 crores by cheque while only Rs.1.65 crores was disclosed as sale consideration. The difference of Rs.1.51 crores was therefore taxed. The assessee's claim for exemption of Rs.1.23 crores under Section 54F was also disallowed due to lack of evidence. Additionally, the assessee's claim of agricultural income amounting to Rs.4,80,000 was treated as "income from other sources" and added to the total income.

15. In A.Y.2012-13, the AO made similar addition of Sundry Creditors for Rs.152.28 Lakh. The agricultural income of Rs.4.82 Lakh was considered as "income from other sources". During the post search investigation, it was noted by AO that the assessee received another sum of Rs.5.00 Crores from Shri G.Rajendran which was also added u/s.68 of the Act.

16. In A.Y.2013-14, the AO made similar addition of Sundry Creditors for Rs.196.87 Lakh. The agricultural income of Rs.332.23 Lakh was considered as "income from other sources".

17. In A.Y.2014-15, the AO made similar addition of Sundry Creditors for Rs.23.48 Crores. The agricultural income of Rs.84.27 Lakh was considered as

“income from other sources”. The profit on sale of agricultural land for Rs.38.35 Lakh was brought to tax as unaccounted income. During the search operations, gold and diamond jewellery valuing Rs.55.48 Lakh was found, which was further added u/s.69B of the Act. Further, the cash of Rs.61.10 Lakh was found which was also added by AO u/s.69A of the Act. The assessments were accordingly framed for all the years in similar manner.

18. Aggrieved by these additions in the order, the assessee assailed all the assessments before the Ld.CIT(A), which were disposed of by him vide common order dated 08.10.2018 wherein the assessee's appeals were partly allowed.

19. During appellate proceedings, the assessee furnished additional evidence which were sent to Assessing Officer seeking for remand report. The assessee also raised a legal ground that in the absence of any incriminating material, no addition could be made in the hands of the assessee. However, Ld.CIT(A) rejected the assessee's plea, on the ground that the presence of seized material was not a pre-requisite for issuing notices u/s.153A of the Act. After considering various judicial decisions, the aforesaid legal plea was dismissed by the Id.CIT(A).

20. Regarding the grounds on merits, the Ld. CIT(A) examined the facts surrounding the additions and noted that the admitted amount of Rs.34.21 crores had not been recorded in the assessee's regular books of account. Instead, part of the amount was introduced as share capital and unsecured loans in the name of various persons in M/s BKR Mercantile Pvt. Ltd. (BMPL). These funds were subsequently routed back to the assessee and other group entities/persons as unsecured loans. A total of Rs.23.44 crores was introduced in BMPL, out of which Rs.14.88 crores was transferred to the assessee and

Rs.7.55 crores to the assessee's wife, Smt. B. Devahie, both in the form of unsecured loans.

21. The assessee contended that the amount of Rs.34.21 Crores was received as on-money on sale of 12 acres of agricultural land and therefore, the same being in the nature of agricultural income, would be exempt from tax. To support the same, the assessee took support of the order passed by Hon'ble Income Tax Settlement Commission (ITSC) in the case of Shri G.Rajendran. On the issue of receipt of Rs.20.00 Crores, the assessee, in the alternative, stated that the amount was derived from relinquishing the trusteeship of the trust and the assessee had transferred his interest in the trust and the trust property. The receipt was for relinquishment of right in a trust which could be taxed only under the head 'capital gains'.

22. The Ld.CIT(A), upon perusal of findings of AO, concurred that the impugned receipts of Rs.34.21 Crores had two components i.e.,

- (i) Rs.20 Crores for relinquishment of interest in the trust;
- (ii) Rs.14.21 Crores as on-money consideration for sale of 12 acres of agricultural land.

23. The claim that the entire amount of Rs.34.21 Crores was received as on-money payment on sale of agricultural land could not be accepted. It was clearly stated that the amount of Rs.20 Crores was for relinquishment of interest in Trust and the balance Rs.14.21 Crores was on money consideration towards agricultural land. This fact was also supported by the application made by Shri G.Rajendran before Hon'ble ITSC and the order passed therein. Therefore, the claim that the entire sum was received on sale of agricultural land was rejected.

24. The assessee made alternative submission and contended that interest in the trust was long-term capital asset existing since 2001. This interest in trust was self-generated and had no cost of acquisition and therefore, capital gains

so arising therefrom would be exempt from tax. However, considering the provisions of Sec.55(2) providing that cost of acquisition of self-generated asset would be considered as 'nil', Ld.CIT(A) rejected the same. However, the submission that the said receipts would be considered as Long-Term Capital Gains (LTCG) would appear to be reasonable. The logic was that the trust was founded in 2000-2001. The assessee procured land for the trust, obtained various permissions for the different colleges run by the trust, undertook and constructed those various buildings of the trust. The assessee developed an interest in the trust which was relinquished in favour of Shri G. Rajendran for consideration of Rs.20.00 Crores. The amount was received for relinquishment of interest in a trust. Therefore, such receipts would be capital receipts and hence, liable to be taxed under the head capital gains. The assessee was founder trustee in the trust which was formed in the year 2001. Therefore, the assessee's interest in the trust was in existence since 2001 onwards and hence, the receipts would be Long Term Capital Gains. Hence, the Id.CIT(A) considered the cost of acquisition thereof would be as 'nil' and the entire amount of Rs.20.00 Crores was to be assessed as Long Term Capital Gains (LTCG).

25. The next issue of receipt of Rs.14.21 Crores, it was undisputed fact that the aforesaid receipt was received on sale of 12 acres of agricultural land. The land sold by the assessee was agriculture land as per revenues records and the land in question was used by the assessee for agricultural purposes. The assessee derived agricultural income from the said land and the lands were not falling within the specified distances from outer limits of any municipality / cantonment areas. The lands were located in villages of Satrunjeyapuram and Perangalathur where Tiruttani was the nearest town. As per applicable notification, Tiruttani was not in the notified municipality / condonement area having specified limits of distance not exceeding 8 kms. In other words, in the case of all such municipality/ cantonment areas where specified limits of

distance is not mentioned, any agriculture land falling outside the municipality /cantonment area would become agricultural land and thus, not liable for capital gains. The assessee's agricultural land falls outside the definition of capital assets u/s.2(14) of the Act and hence, not liable for capital gains tax. Further, the assessee was not in real estate business. The lands were purchased as agricultural lands, retained by the assessee as agricultural lands and sold as agricultural lands only. The Ld.CIT(A), in para 4.3.20, also rendered a finding that the lands were agricultural land and were in agricultural use till the lands were sold by the assessee in the year 2010. The assessee sold the land as an agricultural land only. The facts would clearly establish that the assessee's land was agricultural land as per revenue records and the land was located beyond the specified distance of not exceeding 8 km from any municipality / cantonment and it was used for agricultural activities and finally sold as agricultural land only. Therefore, the gains so realized on sale of land would be exempt from tax. Accordingly, the consideration of Rs.14.21 Crores was to be considered as part of sale consideration for sale of 12 acres of agricultural land and therefore, exempt from tax. In other words, the amount of Rs.20.00 Crores was held to be assessable as LTCG whereas the amount of Rs.14.21 Crores being receipt on sale of agricultural land was exempt from tax. The grounds thus raised by the assessee were partly allowed.

26. With respect to the addition of Rs.5.00 crores in A.Y.2012–13, stated to have been received as an unaccounted advance from Shri G.Rajendran, the assessee explained that Rs.1.83 crores had been recorded as outstanding loans as on 31.03.2012, while the remaining Rs.3.16 crores had been repaid during the same year. The balance of Rs.1.83 crores was stated to have been repaid in subsequent years. The Ld.CIT(A) verified these claims and found them to be correct, leading to the deletion of the impugned addition. The Ld.CIT(A) observed that when an amount is claimed to be a loan or advance and is not

recorded in the books, it cannot be treated as an unexplained cash credit under Section 68, as the provision requires a credit entry in the assessee's books for such an addition. Since the AO himself concluded that the assessee had received the amount from Shri G. Rajendran and the source stood explained, no addition could be made on this account. The amount received as a loan constitutes a valid source for any investment or expenditure by the assessee. Accordingly, the addition was found to be legally unsustainable and was deleted.

27. Regarding the addition made by the AO on account of Sundry Creditors for A.Ys. 2009-10 to 2014-15, the Ld.CIT(A) noted that the assessee was unable to furnish the requisite details. The AO had added the entire year-end balances for A.Ys.2009-10, 2010-11, 2011-12, and 2014-15 u/s.68 of the Act, whereas for A.Y.2012-13, only the incremental increase was considered. For A.Y.2013-14, the AO considered only unsecured loan balances and omitted the sundry creditor balance of Rs.20.61 crores.

28. The assessee argued that, while invoking Section 68 of the Act, the opening balances brought forward from earlier years must be excluded and only the net fresh credits should be considered. It was further contended that the admitted amount of Rs.34.21 crores should be available for telescoping. Additional evidence was submitted and examined during remand proceedings, and the AO furnished a report dated 30.11.2017. After considering the remand report and submissions, the Ld. CIT(A) adjudicated the issue.

29. It was observed that the unsecured creditor balances had remained unpaid for several years, resulting in continuous accumulation, and the assessee failed to establish their genuineness, thereby justifying the application of Section 68. However, since the opening balances represented amounts carried forward from earlier years, the Ld. CIT(A) held that only the fresh credits

introduced during the relevant year should be considered for addition. The Ld. CIT(A) also accepted the assessee's claim for telescoping of the admitted amount of Rs.34.21 crores.

30. Accordingly, the addition was sustained only to the following extent: —

| AY  | 2009-10 | 2010-11 | 2011-12   | 2012-13 | 2013-14  | 2014-15  |
|---|---------|---------|-----------|---------|----------|----------|
| Closing Creditors (A)                                   | 165.00  | 173.00  | 2161.24   | 2403.86 | 2258.81  | 2030.72  |
| Opening Creditors (B)                                   | 34.85   | 165.00  | 173.00    | 2161.24 | 2403.86  | 2258.81  |
| Net Creditors for the year (A) –(B) = (C)               | 130.15  | 8.00    | 1988.24   | 242.62  | (145.04) | (228.08) |
| Less: Loans availed from Shri GR (Accounted) (D)        | ---     | ---     | 183.24    | ---     | ----     | ---      |
| Balance (C) - (D)=(E)                                   | 130.15  | 8.00    | 1805.00   | 242.62  | (145.04) | (228.08) |
| Telescoping Benefit (F)                                 | ---     | ----    | (3421.00) | ---     | ---      | ---      |
| Balance available for telescoping benefit (F)-(E) = (G) | ---     | ----    | 1616.00   | ---     | ----     | ----     |
| Addition Sustained                                      | 130.15  | 8.00    | Nil       | 242.62  | Nil      | Nil      |

31. Thus, the addition of Rs.242.62 Lakhs was sustained for A.Y.2012-13. The addition for other years was deleted by applying the same methodology.

32. On the issue of agricultural income, the Ld. CIT(A) examined the assessee's land holdings and noted that the assessee initially held 11.78 acres of land, which remained in possession until 2010. These lands were subsequently sold to Shri G.Rajendran, and the assessee acquired an additional 23.49 acres, out of which 2.83 acres were sold in 2014. Consequently, the assessee's land holdings were 11.78 acres up to F.Y.2009-

10, 23.49 acres from F.Y. 2010-11 to 2013-14, and 20.66 acres from F.Y. 2014-15 onwards.

33. The Ld.CIT(A) observed that agricultural income could only be generated from these lands. The assessee, however, failed to provide supporting details or evidence for the claimed agricultural income. The income disclosed, particularly Rs.3.32 crore in A.Y.2013-14, appeared highly abnormal, as the normal expected annual agricultural income during the relevant period would range between Rs.15,000/- and Rs.25,000/- per acre. Accordingly, the Ld.CIT(A) estimated agricultural income at Rs.20,000/- per acre per annum and confirmed the additions as follows:—

| <b>A Y</b> | <b>Extent of Land</b> | <b>Total Expected Income @ 20000/- per acre</b> | <b>Agricultural Income as claimed by the assessee</b> | <b>Excess claim treated as other income</b> |
|------------|-----------------------|---|---|---|
| 2011-12    | 23.49 Acre            | Rs.4.70 Lacs                                    | Rs.4,80 Lacs  | Rs.0.10 Lacs                                |
| 2012-13    | 23.49 Acre            | Rs.4.70 Lacs                                    | Rs.4.82 Lacs  | Rs.0.12 Lacs                                |
| 2013-14    | 23.49 Acre            | Rs.4.70 Lacs                                    | Rs.332.23 Lacs  | Rs.327.53 Lacs                              |
| 2014-15    | 23.49 Acre            | Rs.4.70 Lacs                                    | Rs.57.60 Lacs   | Rs.52.90 Lacs                               |

34. The Ld. CIT(A) granted further relief on the ground that, in A.Y. 2013–14, there was a net reduction in sundry creditors amounting to Rs.145.04 lakh. In other words, sundry creditors were liquidated to that extent during the year, and these amounts could subsequently be reintroduced in the books in various forms, thereby serving as a source for future transactions. Consequently, against the agricultural income of Rs.327.53 lakh as sustained, a telescoping benefit of Rs.145.04 lakh was allowed to the assessee. As a result, the addition of Rs.182.49 lakh was finally sustained for A.Y. 2013–14. A similar telescoping benefit was allowed for A.Y. 2014–15, leading to a further reduction in the impugned addition.

35. On the issue of addition of Rs.1.51 Crores for A.Y.2011-12, Ld.CIT(A) noted the relevant details as filed before ITSC by Shri. G.Rajendran which was as under: -

| No. | Survey No.    | Sale Deed No. | Date of Purchase | Extent of land (acres) | Purchase value |
|-----|---------------|---------------|------------------|------------------------|----------------|
| 1   | 236/2A        | 9330/2010     | 03-11-2010       | 3.86                   | 59,00,000      |
| 2   | 215/1D        | 6362/2010     | 21-10-2010       | 3.73                   | 2,41,00,000    |
| 3   | 217/1,2,3,4,5 | 6606/2010     | 21-10-2010       | 4.19                   | 16,76,000      |
|     | Total         |               |                  |                        | 3,16,76,000    |

36. The Ld.CIT(A) noted that the registered sale deed value was Rs.316.76 Lakh and not Rs.165 Lakh. However, the aforesaid land as sold by the assessee were agricultural land as per revenue record and the same was located beyond the specified distances from nearby municipality/cantonment area and used by the assessee for agricultural purposes. Therefore, the gains would be LTCG which would be exempt from tax. The entire sale consideration would be exempt from tax and therefore, the impugned addition was deleted. The AO, in the remand report, also accepted that the deduction of Rs.123.93 Lakh as claimed by the assessee u/s.54F on sale of such land was in order. Since the land was agricultural land, there was no need for assessee to invest the sale proceeds and claim such deduction. Nevertheless, the denial of deduction could not be held to be justified and therefore, the impugned addition was deleted.

37. The AO made addition of Rs.38.35 Lakh in A.Y.2014-15 which was profit on sale of agricultural land. The LTCG was already included in the returned income which was confirmed in remand report and therefore, this addition was deleted.

38. Against jewellery addition of Rs.55.48 Lakh, Ld.CIT(A) granted telescoping benefit of sundry creditors and deleted the addition. On the issue of cash found for Rs.61.10 Lakh, it was confirmed in the remand report that both

these amounts belonged to other group concerns which stood explained and therefore, the addition was deleted.

39. Aggrieved by the common order of the Id.CIT(A), the assessee as well as the revenue is in further appeal before us. The assessee assails the addition sustained by Ld. CIT(A) whereas the revenue assails the relief granted by Ld. CIT(A).

40. The Ld.AR for the assessee argued supporting the case of the assessee with the help of various documents as placed on record. The written submissions have also been filed in due course which have duly been considered while adjudicating the appeals.

41. The Ld. AR vehemently argued that the assessee sold his personal land of 12 acres and received aggregate consideration of Rs.34.21 Crores which was nothing but agricultural income which is exempt from tax going by the findings of Ld.CIT(A) that the said land was agricultural land in nature. To support the same, Ld.AR referred to various documents as placed on record. It has been submitted that no incriminating material was found from the possession of the assessee which would indicate that the consideration of Rs.20.00 Crores was paid for relinquishing the right in the trust as incorrectly concluded by Ld.CIT(A).

42. Per contra the Ld.DR for the revenue, though supported the stand of AO, could not bring on record any such incriminating material which would give such an indication despite being provided with various opportunities.

43. We have heard the rival contentions perused the material available on record and gone through the orders of the authorities along with the written submissions and other documents submitted. From the facts on record, it is evident that the assessee was subjected to a search action on 16.05.2013,

pursuant to which the impugned assessment was framed. The documents seized included the Trust Deed dated 30.11.2001, the Amendment Deed, and the Supplementary Trust Deed. These documents relate to the constitution and reconstitution of the SRDRTEC Trust, where the assessee and his wife acted as managing trustees at the relevant time.

44. However, it is notable that no incriminating material was found in the possession of the assessee during the search to indicate that he had received Rs.20.00 crores for relinquishing his interest in the trust. The impugned additions appear to have been made primarily based on the assessee's statement, without independent corroboration.

45. On perusal of the assessee's response to Question No. 13, it emerges that he sold 12 acres of personally owned land to the new trustees, receiving consideration of Rs.20.00 crores. The new trustees assumed the entire assets and liabilities of the trust. The trust's value was approximately Rs.20.00 crores, with liabilities also around Rs.20.00 crores. In other words, the net value of the trust was negligible. Considering that the new trustees took over liabilities of Rs.20.00 crores, there was no necessity for them to make a separate payment of Rs.20.00 crores to the assessee for relinquishing his interest.

46. Therefore, the consideration of Rs.20.00 crores should be understood as the sale consideration for the personal land sold by the assessee to Shri G. Rajendran and his group. It cannot be bifurcated into two parts, as has been done by the Ld. CIT(A).

47. The findings of the Ld.CIT(A) appear to be primarily based on the settlement order dated 20.05.2016 in the case of Shri G.Rajendran, which has also been placed on record. A review of paragraph 1.3.1 of that order shows that Shri G.Rajendran denied making any such payment in his sworn statement

dated 15.07.2013 but agreed to offer it to tax for the sake of settling the matter with the department. It is pertinent to note that the settlement order is binding and final only between Shri G.Rajendran and the department and does not bind the present assessee.

48. Secondly, the settlement order cannot be regarded as conclusive evidence that the payment of Rs.20.00 crores was made for relinquishing the assessee's interest in the trust. In our considered opinion, any amount purportedly received for resigning from a public charitable trust would be inconsistent with the fundamental principles governing trusts. A trust is a legal entity that does not make payments for resignation or relinquishment of interest, as such transactions would contravene the principles of a Public Charitable Trust. Resignation from a trust does not entail monetary consideration.

49. We concur with the observation of the Ld.CIT(A) in paragraph 4.3.13 that trustees or members of a charitable organization do not possess commercial rights or interests in the trust, since the entire property of a charitable organization belongs to the public. Consequently, no retiring or outgoing trustee/member can claim compensation or consideration from the remaining or incoming trustees. Therefore, any such claim is not legally valid, and no monetary consideration can be attributed to the relinquishment of interest in the trust.

50. It cannot be accepted that the impugned amount of Rs.20.00 crores was separately received by the assessee for giving up interest in the trust. There is no admission of such payment by the purported payer, nor is there any corroborative evidence supporting the conclusion drawn by the Ld.CIT(A). Accordingly, in our considered opinion, the amount of Rs.20.00 crores cannot be taxed as Long-Term Capital Gains arising from the relinquishment of the

trust interest. Instead, this amount forms part of the sale consideration for the personal agricultural land sold by the assessee to Shri G.Rajendran.

51. Viewed from another perspective, even if it were assumed that the assessee had relinquished his interest in the trust, the computation of capital gains would still be infeasible. This follows the ratio of the Hon'ble Supreme Court in **B.C. Srinivasa Setty (1981) 128 ITR 294**, where it was held that none of the provisions under the head "Capital Gains" applies to an asset in respect of which no acquisition cost can be conceived. The Court emphasized that an asset must fall within the contemplation of **Section 45** of the Income Tax Act, and the computation of gains under this section must be governed by the prescribed provisions. Any transaction to which these provisions cannot be applied is regarded as outside the scope of Section 45.

52. Applying this principle to the present case, the alleged sale of the assessee's interest in the trust cannot reasonably be assigned any acquisition cost. Likewise, the period of holding cannot be determined, as the trust existed since 2001 and the assessee's interest was accrued over time. In such circumstances, neither the cost of acquisition or improvement nor the holding period can be computed by any mechanism. Therefore, the reasoning in **B.C. Srinivasa Setty** squarely applies.

53. It is relevant to note that Section 55(2) of the Act provides a mechanism for determining the cost of certain specific capital assets such as goodwill of a business or profession, trademarks, brand names, rights to manufacture, carry on a business, tenancy rights, stage carriage permits, or loom hours. However, the present case does not involve any such asset. Consequently, the computational provisions of capital gains cannot be invoked in respect of the alleged sale of interest in the trust.

54. It is also evident that the assessee was only one of the four founding trustees, and it was not a case where he had sold his individual interest in the trust to the exclusion of the other trustees. In fact, the surviving trustees had also resigned from the trust upon the entry of the new trustees, and no consideration has been shown to have been paid to them. In the circumstances of the present case, applying the ratio of the cited decision of the Hon'ble Apex Court, it is our considered opinion that no capital gains could be computed in the hands of the assessee.

55. Proceeding further, regarding the receipt of Rs.14.21 crores, we note that the Ld. CIT(A) has rendered detailed factual findings in light of the remand report of the AO. It was observed that this amount was received against the sale of agricultural land. The lands sold by the assessee were classified as agricultural land according to revenue records and were being utilized by the assessee for agricultural purposes. The assessee also derived agricultural income from these lands, and they were not situated within the specified distance from the outer limits of any municipality or cantonment area.

56. In these circumstances, the receipts in question clearly constitute income from agricultural land, which does not qualify as a capital asset under **Section 2(14)** of the Act and is therefore exempt from tax. These factual findings regarding the nature and use of the land remain unchallenged before us, and no evidence has been brought on record to suggest otherwise. Accordingly, the consideration accruing to the assessee is rightly treated as agricultural income.

57. Given that the land sold was agricultural in nature, used for agricultural purposes, and not within the prohibited limits of urban areas, these receipts are capital in nature and not chargeable to tax. We concur with the adjudication of the Ld. CIT(A) on this issue, which is well-founded on remand proceedings and

the relevant factual findings. Consequently, we find no reason to interfere with the addition of Rs.14.21 crores.

58. Furthermore, these findings equally apply to the consideration of Rs.20.00 crores, which, as per our earlier conclusions, represents receipts from the sale of the assessee's personal agricultural land. Taken together, the aggregate consideration of Rs.34.21 crores qualifies as exempt agricultural income. Accordingly, we delete the entire addition of Rs.34.21 crores. The grounds raised by the Revenue in its appeal are therefore dismissed, while the corresponding grounds of the assessee are allowed.

59. The next issue for our consideration pertains to the addition of sundry creditors and unsecured loans. Upon reviewing the findings of Ld. CIT(A), we find that the matter has been appropriately addressed. It is evident that there has been minimal substantial movement in sundry creditors and unsecured loans over the years, with the balances accumulating year after year. It is also established that the assessee introduced capital and loans into his own account as well as into the accounts of other group entities from unaccounted receipts.

60. Consequently, the telescoping benefit of the addition of Rs.34.21 crores is available to the assessee, and this has been correctly allowed by the Ld. CIT(A). While making additions under **Section 68** of the Act, it is only the incremental balances during the relevant year that can be taxed as unexplained cash credits; opening balances brought forward from earlier years cannot be added. The Ld. CIT(A)'s conclusions are also supported by the remand proceedings.

61. Accordingly, the impugned addition has been confirmed to the following extent:

| AY  | 2009-10 | 2010-11 | 2011-12   | 2012-13 | 2013-14  | 2014-15  |
|---|---------|---------|-----------|---------|----------|----------|
| Closing Creditors (A)                                   | 165.00  | 173.00  | 2161.24   | 2403.86 | 2258.81  | 2030.72  |
| Opening Creditors (B)                                   | 34.85   | 165.00  | 173.00    | 2161.24 | 2403.86  | 2258.81  |
| Net Creditors for the year (A) –(B) = (C)               | 130.15  | 8.00    | 1988.24   | 242.62  | (145.04) | (228.08) |
| Less: Loans availed from Shri GR (Accounted) (D)        | ---     | ---     | 183.24    | ---     | ---      | ---      |
| Balance (C) –(D)=(E)                                    | 130.15  | 8.00    | 1805.00   | 242.62  | (145.04) | (228.08) |
| Telescoping Benefit (F)                                 | ----    | ---     | (3421.00) | ---     | ---      | ---      |
| Balance available for telescoping benefit (F)–(E) = (G) | ---     | ---     | 1616.00   | ---     | ---      | ---      |
| Addition Sustained                                      | 130.15  | 8.00    | Nil       | 242.62  | Nil      | Nil      |

62. We broadly concur with these findings, except that the telescoping benefit of the remaining amount of Rs.1,616.00 lakh, available in A.Y. 2011-12 as per the computation of Ld. CIT(A), has not been granted in A.Y. 2012-13. Following the rationale adopted by Ld.CIT(A), we allow the available benefit and delete the addition of Rs.242.62 lakh for A.Y. 2012-13. The corresponding grounds are accordingly disposed of. Consequently, the unutilized telescoping benefit would stand at Rs.1,373.38 lakh, calculated as Rs.1,616.00 lakh less Rs.242.62 lakh.

63. On the issue of the addition of Rs.5.00 crores in A.Y. 2012-13, it is evident that the assessee repaid a portion of the amount during the year itself, while the remaining balance was duly accounted for in the books and subsequently repaid in the following years. In view of these facts, the deletion of this addition

by Ld.CIT(A) is justified, and we uphold the same. Accordingly, the corresponding grounds raised by the revenue are dismissed.

64. On the issue of agricultural income, the Ld. CIT(A) examined the assessee's land holdings and found that from F.Ys. 2010-11 to 2013-14, the total land held by the assessee was 23.49 acres. The Ld. CIT(A) estimated agricultural income at Rs.20,000 per acre per annum and made the relevant adjudication. In our considered opinion, this estimation is reasonable.

Accordingly, the additions confirmed by Ld. CIT(A) are as follows:

| A Y     | Extent of Land | Total Expected Income @ 20000/- per acre | Agricultural Income as claimed by the assessee | Excess claim treated as other income |
|---------|----------------|--|--|--------------------------------------|
| 2011-12 | 23.49 Acre     | Rs.4.70 Lacs                             | Rs.4,80 Lacs                                   | Rs.0.10 Lacs                         |
| 2012-13 | 23.49 Acre     | Rs.4.70 Lacs                             | Rs.4.82 Lacs                                   | Rs.0.12 Lacs                         |
| 2013-14 | 23.49 Acre     | Rs.4.70 Lacs                             | Rs.332.23 Lacs                                 | Rs.327.53 Lacs                       |
| 2014-15 | 23.49 Acre     | Rs.4.70 Lacs                             | Rs.57.60 Lacs                                  | Rs.52.90 Lacs                        |

65. The Ld. CIT(A) granted further relief on the ground that in A.Y. 2013-14, there was a net reduction in sundry creditors amounting to Rs.145.04 lakh, indicating that these creditors were liquidated during the year. This amount could subsequently be reintroduced in the books in different forms. Accordingly, against the agricultural income of Rs.327.53 lakh as sustained, a telescoping benefit of Rs.145.04 lakh was allowed to the assessee, resulting in a net addition of Rs.182.49 lakh for A.Y. 2013-14.

66. Further, as noted in para 62 (supra), the unutilized telescoping benefit of Rs.1,373.38 lakh from A.Y. 2011-12 is available for A.Ys. 2013-14 and 2014-15. Applying this benefit, the remaining addition of Rs.182.49 lakh for A.Y. 2013-14 and the addition of Rs.52.90 lakh for A.Y. 2014-15 are deleted. Consequently, the corresponding grounds are disposed of, and the unutilized telescoping benefit now stands at Rs.1,138.08 lakh (Rs.1,373.38 lakh less Rs.182.49 lakh and Rs.52.90 lakh).

67. On the issue of the addition of Rs.1.51 Crores for A.Y. 2011-12, the Ld.CIT(A) observed that the actual sale deed value was Rs.316.76 lakh and not Rs.165.00 lakh. Since the income arose from the sale of agricultural land, it is exempt from tax. The AO has also admitted that the deduction claimed by the assessee u/s. 54F of the Act was valid. In view of these facts, the addition has been rightly deleted, and the impugned order requires no interference in this regard. Hence, the grounds raised by the revenue in this regard are dismissed.

68. The addition of Rs.38.35 lakh in A.Y. 2014-15 relates to profit from the sale of agricultural land, which has already been included in the returned income. The telescoping benefit has been appropriately granted against the jewellery addition of Rs.55.48 lakh. Further, the addition of cash found amounting to Rs.61.10 lakh is based on the remand report and is therefore in order. In view of the above, no interference is warranted in the impugned order on these issues, and the corresponding grounds stand disposed of accordingly.

69. In the result, all the appeals of the assessee are partly allowed and all the appeals of the revenue are dismissed.

Order pronounced in the open court on 19<sup>th</sup> January, 2026 at Chennai.

**Sd/-**  
(मनु कुमार गिरि)  
**(MANU KUMAR GIRI)**  
न्यायिक सदस्य/**Judicial Member**

**Sd/-**  
(एस. आर. रघुनाथा)  
**(S.R.RAGHUNATHA)**  
लेखा सदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 19<sup>th</sup> January, 2026

**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