

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

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 4121/CHNY/2025

निर्धारण वर्ष/Assessment Year: 2017-18

Shri Annakodiraj,
93, Kankanankinaru,
Balapathiraramapuram PO,
VK Pudur TK,
Tirunelveli – 627 953.

The Income Tax Officer,
Vs. Ward 1,
Tirunelveli

PAN: BYDPA 7546K

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri J. Saravanan, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri Aroon Praasad, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 26.02.2026

घोषणा की तारीख/Date of Pronouncement

: 27.02.2026

आदेश/ ORDER

PER GEORGE GEORGE K:

This appeal filed by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 09.10.2025 passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2017-18.

2. The assessee has raised legal grounds. One of the legal ground raised is Ground No.4.1, which reads as under:-

“4.1 For that Ld.CIT(A) failed to note that reopening cannot survive when the reason for reopening ceased to survive, in the light of the fact that no addition was made in respect of the reason for reopening.”

3. The Ld.AR submitted that if the above legal ground is adjudicated, the other grounds need not be adjudicated and may be left open. The Ld.AR submitted that reassessment was initiated on the pretext of assessing income escaping assessment, which was not assessed in the assessment order completed on 31.01.2025 passed u/s.147 r.w.s 144 r.w.s. 144B of the Act. It was stated that notice u/s.148 of the Act was issued for assessing cash deposits of Rs.1,15,000/- and cash withdrawal of Rs.1,70,29,000/-. However, in the assessment completed additions were made with regard to estimation of net profit at 5% amounting to Rs.8,25,540/- and unaccounted purchase of milk from M/s. Jayaa Milk Products of Rs.62,11,350/-. The Ld.AR submitted when the reasons for reopening did not form part of the addition in the reassessment order, the AO is precluded from making any other additions. In support of his submission, the Ld.AR relied on the following judgments of the Hon'ble Jurisdictional High Court

- i. *PVP Ventures Ltd., vs. ACIT, 65 taxmann.com 221*
- ii. *Martech Peripherals (P) Ltd., vs. DCIT, 394 ITR 733 (Mad)*

- iii. *Tractors & Farm Equipment Ltd., vs. ACIT, 409 ITR 369 (Mad)*
- iv. *Anand Cine Services (P) Ltd., vs. ACIT, 169 taxmann.com 236*

3. The Ld.DR was duly heard.

4. We have heard rival submissions and perused the material on record. The assessee in Ground No.4.1 (*supra*) has raised a pure legal issue which does not require examination of fresh facts. In light of judgment of the Hon'ble Supreme Court in the case of National Thermal Power Co. Ltd., vs. CIT reported in 229 ITR 383 (SC), we admit the above ground for adjudication.

5. In the instant case, notice u/s.148 of the Act was issued on 29.03.2024. Prior to the notice issued u/s.148 of the Act, the AO had passed order u/s.148A(d) of the Act on 20.03.2024 wherein he had rejected the objection of the assessee against the reopening of assessment. In the order passed u/s.148A(d) of the Act on 20.03.2024, the reason stated for initiation of reopening the assessment was to bring to tax the cash withdrawal of Rs.1,70,29,000/- and cash deposits of Rs.1,15,000/-. The assessment was completed u/s.147 r.w.s.144 r.w.s 144B of the Act vide order dated 31.01.2025. In the said assessment order, the AO has made two additions namely estimation of net profit at 5% amounting to Rs.8,27,540/- and unaccounted purchase of milk

from M/s. Jayaa Milk Products of Rs.62,11,350/-. As regarding the first addition of Rs.8,27,540/-, the AO calculated the net profit ratio declared by the assessee at 0.28% when assessee had declared net profit rate of 1.86%. As regards the second addition of Rs.62,11,350/-, on perusal of the material on record we find that AO has mis-appreciated the facts. The AO has considered the sale of milk by the assessee to M/s. Jayaa Milk Products as purchase of milk and made addition of Rs.62,11,340/-. The fact that assessee had sold milk to M/s. Jaya Milk Products is clear from the perusal of Federal Bank account of the assessee (placed at pages 43 to 93 of the paper-book submitted by the assessee), which shows that Jaya Milk Products was transferring funds to the current account held by the assessee for the sale of milk products by the assessee. The ledger account copy of the assessee in the books of accounts of Jaya Milk Products for the relevant assessment year is placed on record from pages 24 to 42 of the paper-book submitted by the assessee.

6. The above two additions of Rs.8,27,540/- and Rs.62,11,350/- were never part of the reasons for reopening of assessment. In other words, reopening was on the pretext of income escaping

assessment on account of following information and said information did not lead to any addition in the reassessment order:-

<i>Information suggesting income escaping assessment</i>	<i>Source of information</i>	<i>Amount (Rs.)</i>
<i>Cash withdrawals (including through bearer cheque) in current account</i>	<i>The Federal Bank Limited</i>	<i>1,70,29,000</i>
<i>Cash deposits (including through bearer cheque) in current account</i>	<i>The Federal Bank Limited</i>	<i>1,15,000</i>

7. The Hon'ble Jurisdictional High Court in the following cases had held that when the reasons for reopening did not form part of additions in the reassessment order, the AO is precluded from making other additions.

- i. PVP Ventures Ltd., vs. ACIT, 65 taxmann.com 221*
- ii. Martech Peripherals (P) Ltd., vs. DCIT, 81 taxmann.com 130*
- iii. Tractors & Farm Equipment Ltd., vs. ACIT, 102 taxmann.com 130*
- iv. Anand Cine Services (P) Ltd., vs. ACIT, 169 taxmann.com 236*

8. The relevant finding of the Hon'ble Jurisdictional High Court in the case of PVP Ventures Ltd., (*supra*), read as follows:-

“30. As we have indicated earlier, cases where the reopening is found to be within the parameters of the prescription contained in Sections 147 and 148, the additions made subsequently in the course of the proceedings, have always been upheld by Courts. But, where the reopening of assessment cannot stand on the strength of the reasons recorded under Section 148(2), the Revenue cannot seek to justify the reopening, by finding some point or the other post-facto after the reopening of assessment.

9. In light of the aforesaid judicial pronouncement, we set aside the reassessment order dated 31.01.2025 as bad in law. Since we have adjudicated the legal ground raised in Ground No.4.1 in favour of assessee, the grounds raised on merits and other legal issues are not adjudicated and are left open. It is ordered accordingly.

10. In the result, the appeal filed by the assessee is partly-allowed.

Order pronounced in the open court on 27th February, 2026 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

(S.R. RAGHUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 27th February, 2026

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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

Sd/-

(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)

उपाध्यक्ष /VICE PRESIDENT