

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री एस.एस. विश्वनेत्र रवि, न्यायिक सदस्य एवं सुश्री पद्मावती, एस., लेखा सदस्य के समक्ष
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Ms. Padmavathy, S., Accountant Member

आयकर अपील सं./I.T.A. No.2626/Chny/2025
निर्धारण वर्ष/Assessment Year: 2019-20

The Deputy Commissioner of
Income Tax,
Circle 1,
Salem.

Vs. Ravishankar,
735, LRC Abarana Maaligai,
Bazaar Street, Attur Tk,
Salem 636 102.

[PAN: AAHHR5519N]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri Shiva Srinivas, CIT
प्रत्यर्थी की ओर से/Respondent by : Shri D. Anand, Advocate
सुनवाई की तारीख/ Date of hearing : 24.02.2026
घोषणा की तारीख /Date of Pronouncement : 13.03.2026

आदेश / O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

This appeal filed by the Revenue is directed against the order dated 21.05.2025 passed by the Id. Commissioner of Income Tax (Appeals) 18, Chennai for the assessment year 2019-20.

2. We find that this appeal is filed with a delay of 55 days. The DCIT Circle 1, Salem filed a condonation petition for the delay stating the reasons. Upon hearing both the parties and on examination of the said affidavit, we find the reasons stated by the DCIT are bonafide, which

really prevented in filing the appeal in time. Thus, the delay is condoned and admits the appeal for adjudication.

3. The Appellant-Revenue raised sole ground challenging the action of the Id. CIT(A) in deleting the addition made by the Assessing Officer under section 69B of the Act in the facts and circumstances of the case.

4. Brief facts relating to the issue are that the assessee is an HUF and filed return of income declaring income of ₹.5,88,09,370/-. Statutory notices under section 143(2) and section 142(1) of the Income Tax Act, 1961 ["Act" in short] were issued. According to the Assessing Officer, a survey under section 133A of the Act conducted at the premises M/s. LRC Abarana Maaligai on 06.02.2019 and found that the assessee is the owner of bullion, jewellery or other valuable article exceeds by ₹.3,15,45,968/- from the amount recorded in this behalf in the books of account. Further, he held that no explanation was offered and treated the excess amount as income from sources and added under section 69B of the Act vide order dated 29.09.2021 passed under section 143(3) r.w.s. 144B of the Act. Having aggrieved, the assessee filed an appeal before the Id. CIT(A) and considering the submissions of the assessee, the addition made by the Assessing Officer was deleted by holding that there was no difference in valuation of stock was out of finding excess stock at

the time of survey and the addition made under section 69B of the Act as unexplained investment is not justified and directed the Assessing Officer to treat the same as business income vide para 6.8 of the impugned order. Having aggrieved, the Revenue is in appeal before us.

5. The Id. DR Shri Shiva Srinivas, CIT argued that the value of stock was found at ₹.20,40,13,780/- during the course of survey and the value of stock calculated by the assessee at ₹.17,24,67,812/-. The Assessing Officer rightly held the difference in amount of inventory as under section 69A of the Act against the claim of business income. Further, the addition of ₹.1,86,86,928/-, which is the value of the stock not fully disclosed in the books of account and the addition made under section 69B of the Act was justified. He argued that the Id. CIT(A) did not take into consideration the same and by accepting the submissions of the assessee, directed the Assessing Officer to consider the same as business income. Further, the Id. DR drew our attention to para 3.1 of the assessment order and argued that the assessee himself admitted that he concur the valuation of inventory in terms of quantity and value. Further, he drew our attention to para 3.2 and submits that the assessee has admitted that the amount and quantity of closing stock has not been updated in the Tally data, which is books of account maintained in Tally data. Further, the assessee has

admitted that the stock register has been maintained manually and not updated as on the date of survey. He vehemently argued that the Assessing Officer made addition only on the addition of the assessee by taking into consideration all replies, attachments and presentation made during the video conference by referring to para 8 of the assessment order. Further, the Assessing Officer fully satisfied that the assessee was the owner of the bullion, jewellery and other valuable articles and the amount expended for acquiring such bullion, jewellery or other valuable articles exceeds the amount recorded in this behalf in the books of account maintained as deducted during the survey operation. He vehemently argued that the Id. CIT(A) failed to consider all the findings of the Assessing Officer and pleaded to set aside the same by allowing the sole ground of appeal in restoring the order of the Assessing Officer.

6. The Id. AR Shri D. Anand, Advocate submits that the valuation of stock is governed by ICDS, which mandates treatment of valuation of closing stock as business income. He submits that no excess quantity of stock was found in valuation of stock and argued vehemently that the addition under section 69B of the Act is not at all applicable. He referred to para 6.8 of the impugned order and submits that the assessee only made reference to the treatment against stock in its reply, but, no case of

excess stock of jewellery was made out during the course of survey. He vehemently argued that the additional income as admitted by the assessee in the return of income has to be treated as offered towards difference in valuation of stock and consequently, it should be treated as business income. Further, he submits that there was no finding that the difference in valuation of stock was out of finding of excess stock at the time of survey and the same cannot be treated as unexplained investment. He submits that the order of the Id. CIT(A) in directing the Assessing Officer to consider addition made under section 69B of the Act as business income is justified and it should be confirmed. Regarding the other addition of ₹.1,86,86,926/- on account of excess stock as on the date of survey, the Id. AR drew our attention to para 7.2 of the impugned order and relied on the same. The relevant para 7.2 of the impugned order is reproduced herein below:

7.2 I have considered the submission of the appellant. The AO has added the amount of Rs.1,86,86,926/- u/s 69B on the premise that the difference in stock reported by the appellant is in excess of the stock valued by the Valuer on the date of survey. During the survey, the valuer has valued 58518 gms gross wt (55,812 gms net weight) of gold and 708737 gms of silver. However, as per books furnished by the appellant during assessment, the quantities of gold and silver are higher. Observing that the difference of conversion gold including gold bar of 4811.90 gms and silver of 70837 gms was not valued by the Valuer, the AO increased the valuation of stock by Rs.1,86,86,928/- and treated the same as unexplained investment under section 69B. Per contra the appellant claims that the stock has been accounted in the books which the AO himself has accepted and hence there is no scope for further addition. It was also contended that the difference between 62,565.07 gms as recorded in books and 58,513 gms as per the Department valuer report is 4,049.84 gms and not 4811.89 gms; they relied on the gross weight of gold as per the valuer's report and that no adjustment for purity is given by the Valuer. It is a fact, as was observed by the AO, that there exists stock difference

inasmuch as the book stock is higher than the stock considered for valuation by the Valuer on the date of survey. It is the claim of the appellant that the gross weight as per Valuer has to be considered to examine the difference. The Valuer's report, reproduced in page 2 of the assessment order records 58518 gms as gross weight. This claim is acceptable as gross weight was adopted for arriving at the stock figures in the data furnished by the appellant. As such, the stock recorded in books but physically not available amounts to 4049 gms of gold and 70837 gms of silver. During the survey, it was admitted by the appellant that no stock belonging to the appellant is lying elsewhere and hence the entire stock as per the appellant has been valued. However, there is excess stock in the books but the same is absent physically on the date of survey, Hence the reasonable inference that can be drawn from the above position is that the stock recorded in books is sold and such sales were not recorded in the books of account. As the stock is recorded in books and no unaccounted purchases are detected, I deem it fit to bring the profit arising from the sale of the excess stock to tax under the head income from business against the provision of section 69B invoked by the AO. The stock of gold and silver physically not available as on date of survey is arrived at Rs.1,61,73,483/- i.e value of gold of 4049 gms valued at Rs. 1,33,39,970/- (at 3294.63 per gm) and silver valued at Rs.28,33,513/-. The gross profit of the appellant, as claimed is in the range of 6.44% and accordingly the AQ is directed to arrive at gross profit at the average of last three years on unaccounted sale of gold and silver, and bring the same to taxation under the head "Income from business". Accordingly, grounds No.4 to 8 are treated as partly allowed.

7. Heard both the parties and perused the materials available on record. It is noted that the Government Valuer had valued the physical stock found on the date of survey i.e., on 06.02.2019 and arrived at the figure of ₹.20,40,13,780/- as compared to the books of account. We find there is no dispute with reference to the value adopted by the Govt. Valuer and the assessee, consequently, the Assessing Officer. The assessee, following the same valuation by adopting GP ratio to the sales had arrived at the value of closing stock as on 06.02.2019 at ₹.17,24,67,812/- and admittedly, an amount of ₹.3,15,45,968/- [20,40,13,780 – 17,24,67,812] was offered as additional income treating the same arising out of business income in the return of income. In this

regard, let us examine Question No. 14 as relied on by the Assessing Officer to make the addition under section 69B of the Act. We find the assessee answered that the excess stock of gold jewellery, diamond jewellery, platinum jewellery and silver articles to the extent of ₹.3,15,45,968/- is out of our business income of current year and vide Q No. 15, the assessee answered the same will be accounted as regular income for the period under consideration. Therefore, it is clear that there is no excess stock as held by the Assessing Officer and it is only the difference arising out of assessee by adopting GP ratio to the total valuation as reported by the Govt. Valuer. Thus, we find force in the arguments of the Id. AR that there was no finding by the Assessing Officer towards excess stock on the date of survey and it is only the difference arising out of value adopted by the Govt. Valuer and the GP ratio adopted by the assessee to the current sales for the year under consideration. Thus, we find no infirmity in the order of the Id. CIT(A) and it is justified.

8. Since we held that there is no difference in stock reported by the assessee as compared to excess stock as valued by the Govt. Valuer on the date of survey, the addition made by the Assessing Officer under section 69B of the Act to an amount of ₹.1,86,86,926/- is not justified. Since the addition made by the Assessing Officer under section 69B of

the Act is treated as business income of the assessee in the above mentioned paragraphs, again making the addition on account of difference in stock compared to stock valued by the Govt. Valuer does not arise at all. Thus, we find no infirmity in the order of the Id. CIT(A) and accordingly, the ground raised by the Revenue is dismissed.

9. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 13th March, 2026 at Chennai.

Sd/-
(PADMAVATHY, S.)
ACCOUNTANT MEMBER

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Chennai, Dated, 13.03.2026

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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