आयकरअपीलीयअधिकरण'सी'न्यायपीठ,चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI

श्रीइंटूरीरामाराव, लेखासदस्य एवंश्रीएस.एस.विश्वनेत्ररवि,न्यायिकसदस्यकेसमक्ष।

BEFORE SHRI. INTURI RAMA RAO, ACCOUNTANT MEMBER AND
BEFORE SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकरअपीलसं./**I.T.A.No. 2612/Chny/2024**
निर्धारणवर्ष/Assessment Year: 2017-18

Assistant Commissioner of Income Tax, Income Tax Staff Quarters Complex, Meenambalpuram – 625 002.	Vs.	Karuppakonar Paramasivam Navaneethakrishnan, 114 & 115 West Perumal Maistry Street, Madurai – 625 001. **[PAN: ADTPN-9601-Q]**
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mr. Madhan Kumar, Sr.DR
प्रत्यर्थीकीओरसे/Respondentby	:	Mr. T. Vasudevan, Advocate
सुनवाईकीतारीख/Date of hearing	:	31.07.2026
घोषणाकीतारीख /Date ofPronouncement	:	15.10.2026

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 14.08.2024 passed by the Commissioner of Income Tax (Appeals), Chennai-19, for the assessment year 2017-18.

2. Ground nos. 2 (2.1 & 2.2) raised by the revenue challenging the action of ld.CIT(A) in restricting addition to an extent of Rs.6,00,000/- as against Rs.50,00,000/- by the AO.

3. Heard both the parties and perused the material available on record. We find that during the course of assessment proceedings, the AO rejected the contentions of the assessee and proceeded to treat the entire amount of Rs. 50 lakhs as unexplained money u/s 69A of the Act. It is noted that the AR during the first appellate proceedings has re-iterated the same submission as was made before AO and claimed that the cash withdrawals from the Axis bank account Nos. 914030007590387 and 915020057896266 from 07.04.2016 to 20.04.2016 amounting Rs. 44 lakhs is the cash withdrawn from bank. Further, in respect of the balance amount of Rs. 6 lakhs it was claimed that the same was the internal accruals out of the cumulative cash of Rs. 50 lakhs claimed to be personally carried by the assessee himself from Madurai to Chennai and the same was sent back through Shri. Radha on 26.04.2016 for meeting the expenses of Hotel Park Plaza at Madurai. We find the assessee has made a detailed submission

before the ld.CIT(A), the relevant extract of the same is reproduced as under for better understanding:-

> *"I have been mobilizing funds through various sources for the payment of margin money and to make advance payment for repairs and renovation of the hotel building. The source for Rs. 50 lakhs is out of withdrawals from bank maintained by Sri Kanna Lodge, wherein, I am the proprietor of the concern and the details of drawings is as follows:*

Date	*Amount*
07.04.2016	*5,00,000/-*
11.04.2016	*5,00,000/-*
13.04.2016	*5,00,000/-*
15.04.2016	*5,00,000/-*
16.04.2016	*5,00,000/-*
18.04.2016	*5,00,000/-*
Total	*30,00,000/-*

4. We find, further, in addition to the above the assessee also withdrawn from Axis Bank, Madurai in the name of Park Finance and thedetails of withdrawals are as follows:

Date	*Amount*
11.04.2016	*6,00,000/-*
18.04.2016	*5,00,000/-*
20.04.2016	*3,00,000/-*
Total	*14,00,000/-*

5. It is noted from the above, the total withdrawals of Rs. 44,00,000/- from the above said accounts together with Rs.6,00,000/- of cash, totalling Rs.50 lakhs is utilized to bring back the said amount

of Rs.50 lakhs to Madurai to deposit the same as margin money and also to carry on the repair and renovation work at Madurai Hotel".

6. We find the assessee has substantiated the claim of Rs 44 Lakhs as withdrawals from bank. The AO is of the view that the assessee has not explained that the fact that the withdrawal amount is the same as the one seized and the ld.CIT(A) relied on the decision of the Hon'ble Supreme Court rendered in the case of Roshan Di Hatti vs. CIT (1977) 107 ITR 938 (SC) which held that the burden of proving the source of the money found lies on the assessee, but once the assessee provides a plausible explanation, the burden shifts to the Revenue to prove otherwise. In the present case the assessee has claimed that, out of Rs. 50 lakhs a sum of Rs. 44 lakhs represents the cash withdrawn from bank and no material brought on record by the AO to show that the seized cash emanates from any other source with cogent and corroborative evidences.

7. Further the ld.CIT(A) relied on the decision of Hon'ble Supreme Court in the case of CIT vs. K. Chinnathamban (2007) 292 ITR 682 (SC), which has held that if the assessee explains the source of the

money satisfactorily, the addition under Section 69A cannot be made. The assessee must be given an opportunity to cross-examine the witnesses and we find in the present case the AO has relied upon the statement of the Accountant Shri. M. Murali without providing the assessee an opportunity of cross examination. Therefore, we are of the considered view that the assessee has explained the source for a sum of Rs. 44 lakhs out the cash seizure of Rs. 50 lakhs.

8. Before us, the ld.AR contended the Rs. 6 lakhs was out of assessee's internal accruals and his business income only. We find, in this regard, the AO in the assessment order has not brought on record that the appellant is having any other source to generate income, in our opinion, the A.O. cannot mechanically invoke the deeming section 69A of the Act. The AO should have taken further steps by conducting necessary enquiries to prove that the seized cash were unexplained in nature. We find no such exercise by the AO, the portion of the seized cash amounting Rs.6.00.000/- can only be treated as unaccounted business income of the assessee and cannot be brought under the clutches of section 69A of the Act. Accordingly, we direct the AO to assess the amount of Rs. 6,00,000/- as assessee business income

and to be taxed as business income and we direct the AO to delete the remaining amount of Rs. 44 lakhs (Rs.50,00,000/- - Rs.6,00,000/-) made for the AY 2017-18.Therefore, we find no infirmity in the order of the ld.CIT(A) and it is justified. Grounds raised by the revenue in this regard are dismissed.

9. Ground no.3 & 3.1 raised by the revenue challenging the action of ld.CIT(A) in deleting the addition made on account of deemed dividend u/s. 2(22)(e) of the Act.

10. Heard both the parties and perused the material available on record. We note during the course of post search investigations conducted by the Investigation Officer at M/s. Mehar Hotel P Limited, Chennai, revealed that the company M/s. Mehar Hotel P Limited, Chennai has handed over cash amounting Rs. 47,71,911/- by withdrawing cash from bank account and depositing into the bank accounts of the assessee or his relatives under the caption "MD Account". Further the cash book of M/s. Mehar Hotel P Limited, Chennai revealed that cash payments made by the company to the assessee on his directions is at Rs.71,48,762/- As the said payments

were made during the period 01.04.2015 to 27.04.2016, the Investigation Officer arrived at a conclusion that these payments attract invoking of the provisions of section 2(22)(e) of the Act.

11. We find that the assessee during the course of first appellate proceedings has made detailed submission upon this issue, the extract of the submission is reproduced here as under for better understanding:-

> *"The leamed assessing officer erred in adding Rs 1,19,20,673/- under section 2(22)(e) by considering Chennai account and without considering the account in Madurai Branch*
>
> *Further, the appellant during the course of the scrutiny proceedings has filed a detailed reply and furnished the submissions on 27/12/2019 which is as follows:*
> *"In your questionnaire dated 28 November, 2018 you have decided to add a sum of Rs. 89.41.214/- for the FY 2015-16 and Rs.57,74,762/- for the FY 2016-17, totalling Rs. 147,15,976/- u/s 2(22)(e) of the Income Tax Act, 1961.*
>
> *While perusing the financial statements of Mehar Hotels Private Lid for the FY ended 31 March, 2016, it is admitted under Unsecured Loan from Directors and Friends & relatives of Rs. 2,48,58,508-47, which furnished below:*
>
> | | |
> |---|---|
> | *KP. Navaneethakrishnan, MDAccount* | *Rs. 2,23,18,789-18* |
> | *Loan from Shareholders* | *Rs. 82,66,022-48* |
> | *Total* | *Rs. 3,05,84,811-66* |
> | *Less Debit balance in Loans & Advances* | *Rs. 57,26,303-19* |
> | *Balance Total* | *Rs.2,48,58,508-47* |

Out of the above balance of Rs. 2,48,58,508/- available under Unsecured Loan from Directors and Shareholders as on 31 March, 2016, the withdrawal of Rs.57,74,762/-for the FY 2016-17 is made from the said account. The copy of the Balance Sheet of Mehar Hotels Pvt Ltd is attached.

I would like to bring to your kind attention that the Credit balance available with Mehar Hotels Private Ltd., is sufficient to cover the drawings in the hotel books and hence no addition is warranted us. 2(22)(e) of the Income tax Act, 1961".

While making addition u/s.2(22)(e), the learned assessing officer has failed to consider the above reply which substantiates the claim of the appellant that there is sufficient credit balance available in the books of accounts of the company against the debit balance in the name of the appellant in the company books.

Considering the above facts, the addition made by the learned assessing officer Rs. 1,19,20,673/- u/s. 2(22)(e) of the Income Tax Act, shall be deleted.

12. On an examination of the above with reference to finding of ld.CIT(A), we note the issue under consideration is the account maintained by the assessee with the company is a running account. The assessee is having a balance of the assessee has withdrawn an amount of Rs.1,19,20,673/-. According to ld.CIT(A), when a shareholder maintains a running account with sufficient credit balance, withdrawals from this account will not be treated as deemed dividends, if there are sufficient funds and the account is operating normally. Further, if the account has sufficient credit balance, it indicates that the

shareholder is not drawing from undistributed profits but rather from a balance that has been accumulated over time, accordingly the ld.CIT(A) held that the withdrawals willnot be deemed as dividends under Section 2(22)(e) of the Act, especially if the running account is well maintained and reflects normal business transactions. In order to come to such conclusion, the ld.CIT(A) relied on the decision of the Hon'ble High Court of Delhi in the case of CIT v. Creative Dyeing & Printing Pvt. Ltd. [2022] 138 taxmann.com 191 (Delhi), which held that if there is a running account and the shareholder has sufficient credit balance, the withdrawals made from such accounts should not be treated as deemed dividends under Section 2(22)(e). Further, Hon'ble High Court of Kolkata in the case of CIT v. Eastern Silk Industries Ltd. [2021] 126 taxmann.com 393 (Calcutta), held that if the account had a sufficient credit balance and the withdrawals were part of normal business operations, such amounts should not be treated as deemed dividends under Section 2(22)(e) of the Act. Similarly, the Mumbai ITAT in the case of D.C.I.T. v. A. R. Enterprises [2020] 119 taxmann.com 132 (Mumbai - Trib.) held that since the running account had sufficient credit balance, the withdrawals were not deemed as dividends. Coming to the facts of the present case, as the amount was

withdrawn from assessee credit balance available, there exist no case to invoke the provisions of section 2(22)(e) of the Act. Therefore, we find no infirmity in the order of the ld.CIT(A) in not accepting the findings of the AO to treat the amount of Rs. 1,19,20,673/- as deemed dividend by invoking the provisions of section 2(22)(e) of the Act and it is justified. Ground nos. 3 & 3.1 raised by the revenue is dismissed. Consequently, the AO is directed to delete the addition of Rs. 1,19,20,673/- made as deemed dividend under section 2(22)(e) of the Act for the AY 2017-18.

13. Ground no. 4 raised by the revenue challenging the action of the ld.CIT(A) is deleting the addition of Rs.32,75,000/- u/s. 69A of the Act.

14. Heard both the parties and perused the material available on record. We note that during the course of assessment proceedings the assessee responded to the AO by submitting the details of bank accounts maintained by him in his individual and HUF status. We find according to the AO the assessee did not elaborate the sources of cash deposited treated an amount of Rs.22,75,000/- u/s. 69A of the Act. Before the ld.CIT(A) as it is emanating from para no.6.6.3, we

note that the assessee contended that the deposits were made out of the cash balances available as per the cash book supporting of which the assessee made a detailed comparison of sales for AY 2016-17 and 2017-18. The ld.CIT(A) reproduced the details of bank accounts with reference to cash balances reproduced in page no. 17 & 18 of the impugned order. The ld.CIT(A) considered the same with reference to copy of cash book and found the assessee as deposited the cash during the demonetization period out of the cash available in hand as well as the cash received in the normal course of business. We find no contrary evidence brought on record by the ld.DR rebutting the finding of the ld.CIT(A). Therefore, the view of ld.CIT(A) is justified in treating the order of AO in invoking provisions u/s. 69A of the Actis not valid in law. Thus, in view of our discussion made herein above, we agree with the findings of the ld.CIT(A) made in para no. 6.6.4 of the impugned order and it is justified. Thus, ground no.4 raised by the revenue fails and is dismissed.

15. In the result, appeal filed by the revenue is dismissed.

Order pronounced on 15th October, 2026 at Chennai.

Sd/- Sd/-

(INTURI RAMA RAO)	(S.S. VISWANETHRA RAVI)
ACCOUNTANT MEMBER	JUDICIAL MEMBER

Chennai, Dated: 15.10.2026

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant,
2.प्रत्यर्थी/ Respondent,
3. आयकरआयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीयप्रतिनिधि/DR &
5. गार्डफाईल/GF.