आयकर अपीलीय अधिकरण, 'ए' न्याय□पीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI

श्री एबी टी. वर्की, न्याय□यिक सदस्य एवं श्री जगदीश, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आ□कर अपील सं./ITA Nos.1562, 1563, 1591 & 1592/Chny/2025
निर्धारण वर्ष /Assessment Years: 2015-16, 2016-17, 2017-18 & 2018-19
&
C.O Nos.52, 53, 54 & 55/Chny/2025
(Arises in ITA Nos.1562, 1563, 1591 & 1592/Chny/2025)

The Asst. Commissioner of Income Tax, Central Circle-3(1)(i/c), Chennai.	**Vs.**	Paul Dhinakaran, No.7, Jeevarathinam Nagar, Adyar, Chennai – 600 020. PAN: AABPD 8489M
(अपीलार्थी/**Appellant)**		**(**प्रत्यर्थी/**Respondent/Cross Objector)**
अपीलार्थी की ओर से/ Appellant by	:	Shri Nathala Ravi Babu, CIT
प्रत्यर्थी की ओर से /Respondent /Cross Objector by	:	Shri G. Baskar, Advocate & Shri P.M. Kathir, Advocate
सुनवाई की तारीख/Date of Hearing	:	15.10.2025
घोषणा की तारीख /Date of Pronouncement	:	31.10.2025

आदेश / **O R D E R**

PER JAGADISH, A.M :

Aforesaid four appeals filed by the Revenue and four Cross Objections (C.Os) filed by the assessee for Assessment Year (AYs) 2015-16 to 2018-19 arises out of the orders of Learned Commissioner of Income Tax (Appeals), Chennai-20 [hereinafter "CIT(A)"] dated 22.03.2025.

2. The facts in all these appeals of the Revenue are identical and issues are common hence, we proceed to pass a common order. For brevity, we shall take up the appeal in ITA No.1562/Chny/2025 for A.Y 2015-16 as lead case.

ITA No.1562/Chny/2025 for AY 2015-16:

3. The assessee is an individual and has filed his return of income for all these four assessment years in the status of a Non-Resident. A search operation under section 132 of the Act was conducted in the case of the assessee on 20.01.2021, pursuant to which the Assessing Officer (A.O) issued notices under section 153A of the Act for filing returns of income. In response, the assessee filed returns declaring the same income as originally returned, again in the status of a Non-Resident. The A.O, however, completed the assessments under section 153A of the Act by treating the assessee as a Resident and accordingly brought the global income to tax as under:

	Particulars	*Assessment years*			
		2015-16	*2016-17*	*2017-18*	*2018-19*
1.	*Returned income*	*75,69,540/-*	*74,27,210*	*29,06,650*	*16,68,770*
Additions					
2.	*Deposits in foreign bank accounts*	*1,97,56,255*	*1,41,73,476*	*2,12,20,633*	*3,28,34,929*
3.	*Credit card expenses*	*1,38,80,988*	*1,28,67,990*	*44,02,093*	*37,24,433*
4.	*Personal Gifts*		*3,13,507*		*90,012*
5.	*Assessed income*	*4,12,06,783*	*3,47,82,183*	*2,85,29,276*	*3,83,36,144*

4. The assessee preferred appeal before the Ld. CIT(A), who deleted the additions on account of deposits in foreign bank account and credit card expenses, holding that the assessee was a Non-Resident for all the four years under consideration, in terms of Explanation 1(a) to section 6(1)(c) of the Act. However, the Ld. CIT(A) sustained the additions towards personal gifts of Rs.3,13,507/- for A.Y. 2016-17 and Rs.90,012/- for A.Y. 2018-19.

5. Aggrieved, the Revenue is now in appeal before us, challenging the finding of the Ld. CIT(A) regarding the assessee's residential status as Non-Resident in India during the relevant assessment years.

6. The Learned Departmental Representative (Ld. DR), relying upon Section 6 of the Act, contended that since the assessee was in India for a total period of 365 days or more during the four years preceding the relevant previous year and also for more than 60 days in the relevant financial year, he was a Resident in India. The Ld. DR further argued that Explanation 1(a) to section 6 was not applicable, as the assessee was not an employee of M/s. Jesus Calls International, USA ("JCI"), but was holding a key managerial position and had complete control over its operations. It was submitted that the assessee was an honorary member and the President of JCI, USA, and that his family

members were managing its affairs and exercising full control over its activities.

7. On the other hand, the Ld. Authorized Representative (A.R) of the assessee has supported the order of Ld. CIT(a) and submitted as under:

> *6. The facts which went into consideration by the CIT(A) to arrive at the conclusion that the Respondent was indeed employed with JCI (USA) are as below;*
>
> > *a. JCI (USA) was incorporated in USA with initial Board of four directors, namely John Kurvilla, Aleyamma Abraham, Abraham K Mathew and Vimala Livingston;*
> >
> > *b. JCI (USA) issued an offer of employment letter to the Respondent dated 01.08.2011 for the position of President of JCI (USA) for gross pay*
> >
> > *c. JCI (USA) had filed Form 990, the "Return of Organization Exempt From Income Tax", which is mandated to be filed by tax-exempt organizations under section 801(a) of the Internal Revenue Code. The said form must disclose compensation paid to the key employees and in the said Form for the years 2011 to 2019, compensation paid to the Respondent as President was duly declared for the respective years.*
> >
> > *d. The Respondent had offered wages, salaries, tips etc. from his employment with JCI (USA) in his US individual Income Tax Return for the years 2015 to 2018,*
> >
> > *e. In the employment visa submitted by the Respondent, it is clear that the Respondent has been granted a L1 visa, which is an employment visa issued by the US authorities, mentioning the name of JSI (USA) as his employer.*
>
> *7. The CIT(A) had extracted the relevant documentary evidences in his order and came to the conclusion that the Respondent was employed with JCI (USA) during all 4 years and was thus non-resident in India as per the provisions of Explanation 1 to section 6(1) of the Act."*

The Ld. AR therefore requested that the findings of Ld. CIT(A) deserve to be upheld.

8. We have carefully considered the rival submissions of both parties, perused the relevant material available on record, and examined the detailed findings recorded by the Ld. CIT(A). The issue before us revolves around the determination of the residential status of the assessee under section 6(1) of the Income-tax Act, 1961, and the consequent taxability of income earned abroad during the relevant assessment years.

8.1. It is undisputed that the assessee has filed returns for all four assessment years under consideration in the status of a Non-Resident (NRI). The Assessing Officer, however, has treated the assessee as a Resident, thereby bringing to tax his global income on the reasoning that he satisfied the basic conditions under section 6(1)(a) and (c) of the Act.

8.2. The Ld. CIT(A), after examining the documentary evidence placed on record, has given a categorical finding that the assessee had left India in 2011 for the purpose of employment with M/s. Jesus Calls International, USA (JCI-USA) and continued such employment

during all the relevant years. This conclusion is based on multiple pieces of corroborative evidence, namely:

(i) The incorporation documents of JCI (USA), showing it as a registered tax-exempt organization in the United States.

(ii) The employment offer letter dated 01.08.2011 issued by JCI (USA), appointing the assessee as its *President* with defined remuneration and responsibilities.

(iii) The Form 990 Returns filed by JCI (USA) before the U.S. tax authorities for each year from 2011 to 2019, which mandatorily disclose compensation paid to key managerial personnel. These returns clearly mention the assessee's name as "President" and reflect the annual remuneration paid to him, along with confirmation of full-time engagement (30–40 hours per week).

(iv) The individual U.S. tax returns filed by the assessee for the years under appeal, wherein he has disclosed wages and salary income received from JCI (USA) and paid taxes thereon.

(v) The L1 employment visa issued by the U.S. Government, categorically naming JCI (USA) as the sponsoring employer.

8.3. On a cumulative consideration of these materials, the finding of the CIT(A) that the assessee was employed abroad during the relevant

years is well supported. Consequently, the benefit of Explanation 1(a) to section 6(1) of the Act, which provides that *"an individual who is a citizen of India and who leaves India in any previous year for the purposes of employment outside India shall not be treated as resident unless he stays in India for 182 days or more during that year"*, squarely applies to the assessee's case.

8.4. The contention of the Departmental Representative that the assessee held a managerial or controlling position in JCI (USA) and, therefore, should not be considered an "employee" for the purpose of Explanation 1(a) is devoid of merit. The expression "employment" used in the statute does not make any distinction based on designation or seniority. Whether the individual serves in a junior capacity or as a senior executive, what is material is the existence of a contractual relationship of service. The documentary evidence establishes that the assessee was under a contract of employment and received fixed compensation, which was duly subjected to U.S. income tax. Therefore, his role as President does not negate the character of employment.

8.5 The test of residence is quantitative and objective, depending upon the number of days of stay in India. The CIT(A) has examined the assessee's passport entries and travel records, which establish that his stay in India during each of the four previous years was less than 182 days. This factual finding has not been rebutted by the Department. Once the statutory condition of residence is not met, the status of Non-Resident cannot be disturbed merely on assumptions regarding control or family association.

8.6 The Ld. CIT(A) has meticulously examined all evidences and recorded a reasoned finding. The Department has not placed any new material on record to rebut the findings or demonstrate any factual or legal infirmity in the CIT(A)'s order.

8.7 In view of the foregoing discussion, we hold that the assessee was correctly treated as a Non-Resident under section 6(1) read with Explanation 1(a) of the Act for all the four assessment years in question. Consequently, the additions made by the Assessing Officer towards deposits in foreign bank accounts and foreign credit card expenses, which relate to foreign-sourced income, have been rightly

deleted by the CIT(A). Accordingly, the appeals filed by the Revenue are dismissed.

ITA Nos.1563, 1591 & 1592/Chny/2025 for A.Y 2016-17 to 2018-19:

9. We find that identical issues are involved in the Revenue's appeals for A.Ys. 2016–17 to 2018–19. Therefore, our adjudication for A.Y. 2015–16 shall apply *mutatis mutandis* to these years as well. Accordingly, these appeals are also dismissed.

C.O Nos.52 to 55/Chny/2025 for A.Y 2015-16 to 2018-19:

10. The assessee has filed cross objections where he has challenged the addition upheld by the Ld. CIT(A) being personal gift stated to have been received by the assessee offered over and above declared in the return of income. The additions were Rs. 3,31,350/- in A.Y 2016-17 and Rs. 90,012/- for A.Y 2018-19. The A.O has made addition by comparing gift offered in the return of income with the gift recorded to have been received in the note book seized during the search which was then entered in gift management software of M/s. JCI. The figure of gift recorded to have been received by the respondent in this notebook and gifts offered by return of income for various years have been tabulated by the Ld. CIT(A) by various seized years as under:

A.Y	*Gifts as per software*	*Gifts admitted in ROIs*	*Difference*
2015-16	*7,95,286*	*12,33,497*	*6,38,211*
2016-17	*15,96,948*	*12,83,440*	*(-)3,13,508*
2017-18	*17,42,567*	*26,34,652*	*8,92,086*
2018-19	*12,18,366*	*11,28,354*	*(-)90,012*
2019-20	*10,27,195*	*18,08,455*	*7,81,260*
2020-21	*4,11,553*	*30,39,400*	*26,27,847*
Total	*67,91,914*	*1,13,27,799*	*45,35,885*

The A.O has made the addition in the A.Y 2016-17 and 2018-19, where gift as per software was more than gifts admitted in the return of income. Therefore, the Ld. CIT(A) has upheld the same.

10.1 The Ld. AR contended that these additions were unsustainable as they were not based on any incriminating material found during the search, relying on the decision of the Hon'ble Supreme Court in *PCIT v. Abhisar Buildwell (P.) Ltd.* [2023] 454 ITR 212 (SC). It was argued that the total gifts as per software amounted to Rs.67,91,914/-, whereas gifts offered in the returns aggregated to Rs.1,13,27,799/-, implying excess disclosure and hence there is no escapement of income.

11. We have considered the rival submission. The A.O has made the addition of gift of Rs. 3,31,350/- in A.Y 2016-17 and Rs.90,012/- in A.Y 2018-19 as the gift shown in return of income is less than gift recorded in the seized documents. So far as A.Y 2016-17 and A.Y

2018-19 are concerned, we find that there was incriminating material in the form of seized material that gift recorded in seized material was more than gift shown in the IT return, therefore the A.O has jurisdiction to make addition in assessment made u/s 153 as per decision of Hon'ble Supreme Court in *PCIT v. Abhisar Buildwell (P.) Ltd*. As regards to other years the entire addition made on deposits in foreign bank account and credit card expenses have been deleted by Ld. CIT(A) and the same has been upheld, therefore the C.Os become academic and infructuous . Accordingly, the cross-objections filed by the assessee are dismissed.

12. In the result, all the four appeals filed by the Revenue and the C.Os filed by the assessee are dismissed.

Order pronounced on 31st October, 2025 at Chennai.

Sd/-	**Sd/-**
(एबी टी. वर्की)	**(जगदीश)**
(ABY. T. Varkey)	**(Jagadish)**
न्याि क सदस्य / Judicial Member	**लेखा सदस्य /Accountant Member**

चेन्नई/Chennai, दिनांक/Dated*: 31st* October*, 2025.*

EDN, Sr. P.S

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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