

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**'B' BENCH, CHENNAI**

श्रीएन.आर.एस. गणेशन, न्यायिकसदस्य एवं  
श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND  
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.2573/Mds/2014

निर्धारण वर्ष /Assessment Year : 2010-11

Shri. S.Raman,  
M/s.Mabel Engineers Pvt.Ltd.,  
Plot No.66-69, EPIP Sipcot  
Industrial Complex,  
Gummidiponndi- 601 201.

v. The Deputy Commissioner of IT,  
Company Circle –IV (1),  
Chennai – 600 034.

PAN: AAFPR 1944 M

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri G.Baskar, Advocate

प्रत्यर्थीकीओरसे/Respondent by

: Shri Supriyo Pal, JCIT

सुनवाईकीतारीख/Date of Hearing

: 04.10.2016

घोषणाकीतारीख/Date of Pronouncement

: 30.11.2016

**आदेश / O R D E R**

**PER N.R.S. GANESAN, JUDICIAL MEMBER:**

This appeal of the assessee is directed against the order of  
CIT(A) –IV, Chennai dated 10.04.2014 and pertains to assessment year  
2010-11.

2. The only issue arises for consideration is addition of Rs.24,63,000/- under section 68 of the Income Tax Act.

3. Shri G.Baskar, the learned counsel for the assessee submitted that the assessee has received Rs.24,63,000/- from close relatives. Referring to receipt of Rs.5,00,000/- each from Mr.Venkatathri and Mrs.V.Rukmani, the learned counsel submitted that the said Mr.Venkatathri is the father in law of the assessee. He has agricultural income and also savings from his temple services. Out of the savings from temple services and agricultural income, Shri Venkatathri donated a sum of Rs.5,00,000/- to the assessee. Shri Venkatathri executing a gift deed on 19.03.2010. A copy of the gift said to be executed by Mr.K.Venkatathri is available at page 65 of the paper book. Similarly, Smt. Rukmani, the mother in law of the assessee has also donated Rs.5,00,000/-. Referring to receipt of Rs.2,49,630/- from Mr.S.Krishnamoorthy, the learned counsel submitted that the said Mr.Krishnamoorthy, is none other than the brother of the assessee. An equal amount was received from the other brothers namely Mr.S.Muthukrishnan and Mr.S.Srinivasan. The receipt of the money from the assessee's brother and the written off the same reflected in the balance sheet, a copy of which is available at page 3 of the paper book.

All the three brothers were summoned by the assessing officer and they were also examined.

4. Referring to the amount received from Ms.Varshini Raman and Ms.Divya Raman, the assessee's daughters, the learned counsel for the assessee submitted that the assessee has received Rs.2,30,000/- from Ms.Varshini Raman and Rs.2,40,000/- from Ms.Divya Raman respectively. The amount was gifted by them from their past savings. Both of them were shown sundry debtors in the balance sheet. Similarly, the assessee has also received a sum of Rs.2,28,370/- from M/s.Mabel Engineers Pvt.Ltd. This amount was not considered by the CIT(A). Referring to paragraph 10.1 of the assessment order, the learned counsel for the assessee submitted that the ledger extract of the company which is available at page 32 of the paper book discloses the payment of Rs.2,28,370/-. Similarly, a sum of Rs.1,15,000/- was also reimbursed by M/s.Mabel Engineers Pvt.Ltd. towards expenses. Hence, the addition made by the assessing officer is not justified.

5. On the contrary, Shri Supriyo Pal, the learned representative for the department submitted that the assessing officer found that there are cash deposit in the bank account to the extent of Rs.30,83,000/-. In fact,

the assessing officer issued notice under Section 133(6) of the Income Tax Act to the so called relatives of the assessee and an opportunity was also provided to the assessee to establish the identity, credit worthiness and genuineness of the transaction. Out of Rs.30,83,000/-, the assessing officer found that the assessee has not established the genuineness of the transaction of Rs.24,63,000/-. Referring to the claim of the assessee about the receipt of Rs.5,00,000/- from Mr.Venkatathri and Mrs.V.Rukmani, the father in law and mother in law of the assessee respectively, the learned representative for the revenue submitted that the credit worthiness and genuineness of the transaction was not proved. Referring to the claim of the assessee with regard to receipt of amount from Mr.Krishnamoorthy, Mr.S.Muthukrishnan and Mr.S.Srinivasan, the brothers of the assessee, the learned representative for the assessee submitted that Shri Srinivasan is working as prohit and he paid Rs.2,00,000/- towards repayment of loan taken by the assessee on earlier occasions. The assessing officer found that Shri Srinivasan has a very meager income and he has no source for paying a sum of Rs.2,00,000/- to the assessee. Similarly, Shri Muthukrishnan, another brother of the assessee, the assessing officer found that he was working for a salary of Rs.17,000/- per month. Shri Muthukrishnan's son Shri Seshan also receiving salary ranging from Rs.20,000/- to Rs.25,000/- per

month. The withdrawal from the bank account was only Rs.200/- to Rs.2,000/-. Therefore, the assessing officer found that the withdrawals made by the assessee or his son would not be sufficient to repay the loan of Rs.2,00,000/- in cash. The assessing officer has also disbelieved the claim of Rs.2,49,630/- from another brother Shri Krishnamoorthy.

6. Referring to the amount received from Ms.Varshini Raman and Ms.Divya Raman, who are the daughters of the assessee, the learned department representative submitted that both of them were students at the relevant point of time. Therefore, they have no source to make the payment to the assessee. In view of the above facts and situation, the learned department representative submitted that the CIT(A) has rightly confirmed the order of the assessing officer.

7. We have considered the rival submissions on either side and perused the relevant material available on record. The assessing officer made an addition of Rs.24,63,000/- under Section 68 of the Income Tax Act. The total deposit in the bank account was to the extent of Rs.30,83,000/-. The assessee claimed before the authorities below that he received a sum of Rs.5,00,000/- each from Mr.Venkatathri and Mrs.V.Rukmani, father in law and mother in law of the assessee respectively. The assessee claims that his father in law Mr.Venkatathri

was a retired employee from temple service and he is also having agricultural income. The assessee has filed a gift deed from Mr.Venkatathri and Mrs.V.Rukmani. It is well settled principles of law that when the assessee claims receipt of money from others, it is obligatory on the part of the assessee to establish the identity of the parties, credit worthiness of the creditors and also the genuineness of the transaction. In the case before us, the identity of the parties are not in dispute. What is disputed is credit worthiness of the creditors to advance money to the assessee and also the genuineness of the transaction. Though the assessee claims that he received money from his mother in law and father in law, the material available on record, has not indicate the available source for making the so called gift to the assessee.

8. We have also carefully gone through the gift deed filed by the assessee. A copy of which is available is at pages 65 to 68 of the paper book. The gift deed indicates the donation / gift said to be made by Mr.Venkatathri. However, it is not disclosed as any source of income for making such a gift. The gift deed does not disclose the actual date of gift received by the assessee. Therefore, this document of gift does not establish the credit worthiness of the creditor namely, the so called donor. Similarly, no material was available on record to substantiate the

credit worthiness and genuineness in the case of Mrs.V.Rukmani. Now, coming to the claim of the assessee about receipt of the money from Mr.Krishnamoorthy, Mr.S.Muthukrishnan and Mr.S.Srinivasan, the brothers of the assessee, the claim of the assessee is that the payments were reflected in the balance sheet. We have carefully gone through the copy of the statement of affairs which is available at page 3 of the paper book. From the statement of affairs, the salary received was Rs.5,30,000/- which is disclosed on the liability side of the statement of affairs. On the asset side, a sum of Rs.1,04,552.45 and another sum of Rs.1,29,437/- disclosed. There is no clear indication of cash deposit from M/s.Mabel Engineers Pvt.Ltd., since the assessee claims that the deposit was received from private limited company. This Tribunal is of the considered opinion that the availability of the funds with private limited company needs to be examined. Copies of the statement of affairs or the balance sheet of M/s.Mabel Engineers Pvt.Ltd. is not available on record.

9. In the absence of any material, this Tribunal is of the considered opinion that the availability of the funds with Mable Engineers Pvt.Ltd. for transferring the funds to the assessee cannot be ascertained. Therefore, in the absence of any material, the CIT(A) has rightly confirmed the order of the assessing officer. Hence, this tribunal do not find any reason

to interfere with the order of the lower authorities and accordingly, the same is confirmed.

10. In the result, the appeal of the assessee is dismissed.

Order pronounced on 30<sup>th</sup> November, 2016 at Chennai.

Sd/-

(ए. मोहन अलंकामणी)

**(A. Mohan Alankamony)**

लेखा सदस्य/Accountant Member

Sd/-

(एन.आर.एस. गणेशन)

**(N.R.S. Ganesan)**

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 30<sup>th</sup> November, 2016.

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आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT,
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.