

**IN THE INCOME TAX APPELLATE TRIBUNAL  
VISAKHAPATNAM BENCH, VISAKHAPATNAM**

**BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER &  
SHRI D.S. SUNDER SINGH, HON'BLE ACCOUNTANT MEMBER**

**ITA No. 518/VIZ/2017  
(Asst. Year : 2009-10)**

Kanumuri Varahala Raju, vs. ACIT, Central Circle-1,  
D.No. 3-3-67, Narasingaraopeta, Visakhapatnam.  
Anakapalle.

PAN No. ABDPK 2890 G  
(Appellant)

(Respondent)

Assessee by : Shri K.S.S. Sharma – CA.  
Department By : Shri Deba Kumar Sonawal – CIT DR

Date of hearing : 11/01/2018.  
Date of pronouncement : 25/01/2018.

**ORDER**

**PER V. DURGA RAO, JUDICIAL MEMBER**

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-3, Visakhapatnam, dated 30/08/2017 for the Assessment Year 2009-10.

**2.** Facts of the case, in brief, are that assessee is an individual, filed his return of income admitting an amount of Rs. 4,21,320/- and agricultural income of Rs. 7,57,861/-. The assessee was covered by search and seizure operation under section 132 of the Income Tax Act, 1961 (hereinafter referred to as "Act") on 27/04/2013 in the M/s. Sunray Group. The assessee is a

Managing Director of the group and his statement was recorded under section 132(4) of the Act, wherein he admitted that a promissory note worth Rs. 1.5 lakh was taken from P. Badri Raju on 11/07/2008 and the same was repaid in the same year, but he was not able to explain the source. He offered an amount of Rs.1.5 lakhs as his undisclosed income for the financial year 2008-09. However, the assessee had filed a return of income wherein this amount was not offered for taxation and also not given any satisfactory explanation. Therefore, the Assessing Officer added this amount of Rs. 1.5 lakhs as income of the assessee and accordingly assessment is completed.

**3.** Before the Id. CIT(A), it was submitted that the assessee is having income of Rs. 4,21,320/-; agricultural income of Rs.7,57,861/- and salary income of Rs. 5 lakhs per annum and submitted that same may be considered and the addition made by the Assessing Officer may be deleted. After considering the explanation given by the assessee, Id. CIT(A) confirmed the order of the Assessing Officer by observing that the assessee having offered income under section 132(4) of the Act and not given reasons for source of the payment, explaining the source after four years is not acceptable.

**4.** On appeal before us, Id. Authorised Representative for the assessee has submitted that the Id. CIT(A) without considering the

source, simply addition is confirmed and submitted that the addition made by the Assessing Officer may be deleted.

**5.** On the other hand, Id. Departmental Representative supported the orders of the lower authorities.

**6.** We have heard both the parties, perused the material available on record and orders of the authorities below.

**7.** There is a search and seizure operation in the case of M/s.Sunray Group, wherein assessee is a Managing Director. During the course of search, some promissory notes were found and one of the promissory notes amounting to Rs. 1.5 lakhs is stated before the authorities under section 132(4) that he was taken loan from P. Badri Raju and was repaid the same in the same year, but he was not explained the source immediately. However, before the Assessing Officer he submitted that he is having a source for repayment, but the same was not satisfied by the Assessing Officer and addition is made. Before the Id. CIT(A), he submitted a detailed explanation by saying that he is having income of Rs. 4,21,320/- and agricultural income of Rs.7,57,861/- The Id. CIT(A) was of the opinion that this explanation was offered after four years and cannot be acceptable. We find that when assessee has given a detailed explanation, if that explanation is found to be correct, without examining the same, simply confirmed the addition is not justified. Therefore, though the

assessee is not able to explain the source for repayment of Rs. 1.5 lakhs before the Assessing Officer, he explained in detail before the Id. CIT(A). The Id. CIT(A) has considered the explanation, but not made any comments and simply rejected the same on the ground that explanation is after four years and addition is confirmed. We find that the order passed by the Id. CIT(A) is not acceptable, therefore, reverse the order passed by the Id. CIT(A). Thus, this ground of appeal raised by the assessee is allowed.

**8.** In the result, appeal filed by the assessee is allowed.

Order Pronounced in open Court on this 25<sup>th</sup> day of Jan., 2018.

Sd/-  
**(D.S. SUNDER SINGH)**  
Accountant Member

sd/-  
**(V. DURGA RAO)**  
Judicial Member

**Dated : 25<sup>th</sup> January, 2018.**

**vr/-**

Copy to:

1. The Assessee - Kanumuri Varahala Raju, D.No. 3-3-67, Narasingaraopeta, Anakapalle.
2. The Revenue - ACIT, Central Circle-1, Visakhapatnam.
3. The Pr.CIT(Central), Visakhapatnam.
4. The CIT(A)-3, Visakhapatnam.
5. The D.R., Visakhapatnam.
6. Guard file.

By order

(VUKKEM RAMBABU)  
Sr. Private Secretary,  
ITAT, Visakhapatnam.