

**IN THE INCOME TAX APPELLATE TRIBUNAL  
Hyderabad ' B ' SMC Bench, Hyderabad**

**Before Smt. P. Madhavi Devi, Judicial Member**

**ITA No.1684/Hyd/2017**  
(Assessment Year: 2013-14)

Shri Devender Kumar Parakh Vs Dy. Commissioner of Income  
Secunderabad Tax, Circle 10 ( 1 )  
PAN: ADLPA 6506 F Hyderabad  
(Appellant) (Respondent)

For Assessee : Ms.Anam Siddiqui from the  
Office of Sh.Sunil Kumar Jain  
For Revenue : Shri Ramakrishna Bandi, DR

Date of Hearing: 15.03.2018  
Date of Pronouncement: 16.03.2018

**ORDER**

This is assessee's appeal for the A.Y 2013-14 against the order of the learned CIT (A)-6, Hyderabad, dated 5.6.2017.

2. Brief facts of the case are that the assessee, an individual, engaged in the business of trading in iron & steel, has filed his return of income declaring total income of Rs.31,43,630. During the assessment proceedings u/s 143(3) of the Act, the AO observed that the assessee has given loans to various parties totaling to a sum of Rs.42,15,109. The assessee was issued a show-cause notice to furnish information and also to show-cause as to why the interest should not be charged on the interest free loans and advance given by the assessee. The assessee submitted its explanation. However, the AO was not convinced by the assessee's contention and disallowed interest @ 12% on the amount of advances given by the assessee. Aggrieved, the

assessee preferred an appeal before the CIT(A), who granted partial relief to the assessee. Against the confirmation of the addition by the CIT (A), the assessee is in second appeal before us by raising the following grounds of appeal:

*“A. The Hon'ble CIT (A)-6 has erred in partly disallowing the addition made by the AO to the tune of Rs.5,05,813/-.*

3. The learned Counsel for the assessee reiterated the submissions made before the authorities below and submitted that the assessee had given advances to two persons i.e. Shri Tarun Jain and Shri Jatan Parekh to search for office space for starting a Branch Office at Jaipur and these two persons have returned the advances in the subsequent years. Therefore, according to her, the advances given by the assessee are for the business purposes and are not loans and advances as considered by the AO and no interest is to be charged on the said advances.

4. Further, with regard to the advance given to the assessee's wife Mrs. Anu Parakh, the learned Counsel for the assessee submitted that Mrs. Anu Parakh had given her property on rent to the assessee for carrying on its business and the assessee had given the interest free rental advance of Rs.24.00 lakhs to his wife and has not paid any rent for the period thereafter, till the advance has been adjusted against the rents to be paid by the assessee. She has drawn our attention to the rental deed filed at page 4 of the paper book to demonstrate that the rental deed was to take effect from 4.4.2011 and that the assessee had to deposit a sum of Rs.24.00 lakhs with the lessor as interest free rental deposit and therefore, she was not given any rent by

the assessee till 31.3.2019. She also submitted that the monthly rent of Rs.40,000, exclusive of electricity and water consumption charges shall commence from 1.4.2015 and the same shall be applicable till 31.3.2019. According to the learned Counsel for the assessee, a sum of Rs.29,71,000 advanced to his wife included the sum of Rs.24.00 lakhs given as interest free rent deposit and the actual advance given to her is only Rs.5,70,000. She submitted that the sum of Rs.24.00 lakhs was given for carrying out the assessee's business in the rented premises and therefore, it cannot be treated as interest free advance to assessee's wife. Thus, she prayed that the addition confirmed by the CIT (A) be deleted.

5. The learned DR, on the other hand, supported the orders of the authorities below.

6. Having regard to the rival contentions and the material on record, we find that the assessee has not been able to prove the commercial expediency of making advances to Shri Tarun Jain and Jatan Parekh. When a query was raised as to the opening of any office in Jaipur even subsequent to the relevant A.Y, the learned Counsel for the assessee answered in the negative. Therefore, the commercial expediency of making the advances to these two persons and that too for the purposes stated by the assessee is not proved. Therefore, we see no reason to interfere with the findings of the CIT (A) on this issue.

7. As regards the advance of Rs.29,71,000 given to the assessee's wife, we find that the assessee has filed the

unregistered rental agreement dated 4.4.2011 according to which, the assessee is required to give an interest free rental deposit of Rs.24.00 lakhs to his wife and the owner of the property. The mode and the time of payment and whether such an advance has been adjusted against the rent due to the owner of the property and whether the assessee has made any payment of rent to his wife were not proved by the assessee before the CIT (A) nor has he filed any evidence before us. The assessee had taken this contention only before the CIT (A) by filing the copy of the rental deed. On going through the rental deed and also the sale deed, we find that Mrs. Anu Parakh had purchased the property on 9.4.2010 and has allegedly given the property on rent on 4.4.2011. In the rental deed, the addresses of the parties as well as the property is given as in Telangana, the State which was formed only in 2014. Therefore, existence of the rental deed in 2011 is itself doubtful. It appears to have been created for the purposes of producing it before the CIT (A). The assessment order was passed in 4.3.2016 but the assessee had not raised any such contention before the AO, even though the alleged rental deed is executed on 4.4.2011 itself. Therefore, I do not see any reason to interfere with the order of the CIT (A) on this issue.

8. In the result, assessee's appeal is dismissed.

Order pronounced in the Open Court on 16<sup>th</sup> March, 2018.

**Sd/-**

**(P. Madhavi Devi)**  
**Judicial Member**

Hyderabad, dated 16<sup>th</sup> March 2018.

***Vinodan/sps***

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- 2 DCIT Circle 10(1) Hyderabad
- 3 CIT (A)-6 Hyderabad
- 4 Pr. CIT – 6 HYDERABAD
- 5 The DR, ITAT Hyderabad
- 6 Guard File

*By Order*