

**THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH "A", HYDERABAD**

**BEFORE SMT P. MADHAVI DEVI, JUDICIAL MEMBER  
AND SHRI S. RIFIAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.1406/Hyd/2011  
Assessment Year: 2006-07**

The Income Tax Officer,  
Ward-8(3), Hyderabad.

vs. Smt. P. Radha,  
Hyderabad.

PAN – AEJPP5789C

(Appellant)

(Respondent)

Revenue by : Shri B. Suresh Babu  
Assessee by : Shri K.C. Devdas

Date of hearing : 23-04-2018  
Date of pronouncement : 27-04-2018

**ORDER**

**PER P. MADHAVI DEVI, J.M.:**

This is Revenue's appeal against the order of the CIT(A)-I, Hyderabad dated 03.06.2011 for the A.Y 2006-07.

2. Brief facts of the case are that the assessee, an individual, filed her original return of income on 27.09.2007 declaring an income of Rs. 7,29,610/- and agricultural income of Rs. 45,000/-. There was a search and seizure operation u/s 132 of the IT Act on the residential premises of the assessee on 26.08.2008. Thereafter, a notice u/s 153A of the IT Act was issued on 28.07.2009 and consequent thereto, the assessment also was completed u/s 143 (3) r.w.s 153A of the IT Act.

3. During the assessment proceedings the A.O observed that there was a search at residential premises of Shri OSS Prasad on 17.09.2008 and there were several documents in the possession of Shri OSS Prasad which were found and seized, such as, cash receipts issued by Ch. Damodar Rao and Shri Jaipal, According to the said receipts, a sum of Rs. 4,75,50,000/- was paid in cash by Sri OSS Prasad to Shri Ch. Damodar Rao and Shri Jaipal towards purchase of lands admeasuring 17.11 Acres in Survey Nos. 21 to 35 at Edulanagulapally, Medak district. Shri Ch. Damodar Rao in his statement u/s 131 of the IT Act dated 05.12.2008, had stated that he has received cash of Rs. 4,43,50,000/- which includes cheques, out of which sum of Rs. 2,21,80,000/- was towards land of 8 acres 28 guntas in the name of Shri P. Sudhakar Rao and Shri M. Gopal Krishna Rao, while the balance of Rs. 2,21,70,000/- was received from Shri OSS Prasad for the land of 8.23 Acres belonging to the assessee herein, i.e Smt. P Radha. It was also submitted that out of this sum, Rs. 17,15,000/- was paid by cheque to Smt P. Radha and Rs. 90,00,000/- was paid to Shri Devendar Rao by way of cash and that he had made a profit of Rs. 1,14,55,000/- and has offered it to tax as his undisclosed income.

4. The A.O observed that, in spite of the said statement, Shri Ch. Damaodar Rao filed his return of income but offered 'Nil' income only, on the ground

that it is agricultural land that has been sold, and also that in his computation, he has shown Rs. 17,15,000/- as paid to the landlord, Rs. 43,57,500/- as paid to original landlords and Rs. 90 lakhs as paid to Shri Devender Rao and Rs. 6 lakhs paid as commission and only the balance is taxable. Observing that Shri Ch. Damodar Rao is only a commission agent and that Smt P. Radha is the real landlord, A.O held that it is improbable that she would not have received the amount as per the market rate and some commission agent would have pocketed a handsome profit. He therefore treated the balance of Rs. 1,00,55,000/- as the income of the assessee on protective basis and brought it to tax.

5. Aggrieved, the assessee preferred an appeal before the CIT(A) who deleted the addition on the ground that Shri Ch. Damodar Rao has admitted to have earned the sum of Rs. 1,14,55,000/- and the same cannot be brought to tax in the hands of the assessee. Aggrieved by the relief granted by the CIT(A), the Revenue is in appeal before us.

6. While the Ld. DR supported the orders of the A.O the Ld. Counsel for the assessee supported the order of the CIT(A).

7. Having regard to the rival contentions and material on record, we find that no incriminating material was found in the possession of the assessee during the course of search in her residential

premises nor was any incriminating material relating to the assessee found in the hands of Shri OSS Prasad, the other person searched. The documents found in the hands of Shri OSS Prasad related to Shri Ch Damodar Rao and Shri Ch Damodar Rao had admitted that he has made a profit of 1,14,55,000/- and that the assessee was paid only a sum of Rs. 17,15,000/-. We find that the A.O has made addition on the premise that the assessee being the landlord, would have received the major portion of the consideration and not the commission agent. We find that the Revenue has not been able to bring any material (either written or oral) on record to hold that the assessee has received any sum other than that mentioned in the cheques received by her. In such circumstances, the protective assessment made in the hands of the assessee has no legs to stand and has rightly been deleted by the CIT(A). Therefore, we see no reason to interfere with the order of the CIT(A) and accordingly Revenue's appeal is dismissed.

8. In the result appeal filed by the Revenue is dismissed.

Pronounced in the open court on 27<sup>th</sup> April, 2018.

Sd/-

**(S. RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

Sd/-

**(P. MADHAVI DEVI)  
JUDICIAL MEMBER**

Hyderabad, Dated: 27<sup>th</sup> April, 2018

KRK

- 1 Smt. P. Radha, Flat No. 310 & 311, Teja Block, My Home Nawadeepa, madhapur, Hyderabad..
- 2 The ITO, Ward-8(3), Hyderabad
- 3 The CIT(A)-I, Hyderabad.
- 4 The Addl. Commissioner of Income tax, Range-1, Hyderabad.
- 5 The DR, ITAT Hyderabad
- 6 Guard File