

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL,
VISA KHAPATNAM BENCH, VISA KHAPATNAM**

श्री वी. दुर्गा राव, न्यायिक सदस्य एवं
श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष

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

आयकर अपील सं./I.T.A.No.118/Viz/2014
(निर्धारण वर्ष/Assessment Year:2009-10)

Smt. Dr. Sugnam Bharathi
Sri Venkataramana Nursing Home
D.No.33-7-6, Suryalayam Street
Tanuku
[PAN :AIGPS9643H]

Vs. Income Tax Officer
Ward-2
Tanuku

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से/ Respondent by

: Shri G.V.N.Hari, AR
: Shri K.C.Das, DR

सुनवाई की तारीख / Date of Hearing

: 07.08.2018

घोषणा की तारीख/Date of Pronouncement

: 17.08.2018

आदेश /ORDER

PER D.S. SUNDER SINGH, Accountant Member:

This appeal is filed by the assessee against the order of the Commissioner of Income Tax (Appeals) [CIT(A)], Visakhapatnam vide I.T.A.No.0768/2011-12/ITO W-2, TNK/2013-14 dated 20.03.2014 for the assessment year 2009-10.

2. Ground No.1 and 4 are general in nature which does not require specific adjudication.

3. Ground No.2 & 3 are related to the additions confirmed by the Ld.CIT(A) on account of unsecured loans. During the assessment proceedings, the Assessing Officer (AO) found that the assessee has accepted the unsecured loans of Rs.39,86,000/-, out of which the assessee could not produce the supporting evidences for a sum of Rs.29.86 lakhs to establish the identity, credit worthiness and the genuineness of the unsecured loans. Therefore, the AO made the addition of Rs.29.86 lakhs as unexplained income u/s 68 of the Income Tax Act, 1961 (hereinafter called as 'Act').

4. Aggrieved by the order of the AO, the assessee went on appeal before the Ld.CIT(A) and the Ld.CIT(A) deleted the addition of Rs.5 lakhs received from Sri P.Satyanarayana and confirmed the remaining amount of Rs.24.86 lakhs as unexplained. The Ld.CIT(A) discussed the reasons for confirming the additions in each case independently as under :

5. Credit in the name of Sri Kandula Satyanarayana (Rs.5,26,000/-):

5.1 *The AO disbelieved this creditor as he noted that ATM withdrawals in small amounts on different dates are claimed as the loan amounts. It is seen that the assessee has filed confirmation letter from this creditor. It was*

claimed that the creditor's son lives in Ireland and sends money out of which the creditor was said to have advanced the amounts. As already discussed by the AO, it was noted that the amounts were withdrawn through ATM on various dates in small amounts, which only indicate that it was withdrawn for personal drawings. It is not clarified why the amount could not be advanced in cheque when the party has a bank account. Thus the genuineness of this transaction remained in doubt. As a result, it is held that the AO is justified in treating this credit as unproved. Accordingly the impugned addition of Rs.5,26,000/- is confirmed.

6. *Credit in the name of Baby Shyamala (Rs.5,00,000/-):*

6.1. *As per the confirmation letter filed, this creditor is in the business of tailoring and laces. The amount was said to be advanced on various dates. The AO noted that in the scrutiny assessment of Surisetty Nageswara Rao, Baby Shyamala was shown as creditor for Rs.5lakhs. The assessee has not filed any evidence to show that this creditor has the capacity to advance such a huge amount. Even during the appellate proceedings the assessee could not prove this aspect. Therefore, I am of the view that the AO is justified in assessing this unexplained credit as income. As a result, the impugned addition made in this regard of Rs.5,00,000/- is confirmed.*

8. *Credit in the name of Smt. P.Nagamani (Rs.2,00,000/-):*

8.1. *The assessee has filed confirmation letter from this creditor. In the confirmation letter it was stated that the said Nagamani owns 2.28 acres of agricultural land at Suryaraopalem and out of such agricultural income an amount of Rs2,00,000/- was advanced to the assessee. It was also represented that the said Nagamani receives agricultural income of Rs1,00,000/- per annum from the said land and out of her personal savings impugned loan amount was given. During the appellate proceedings, copy of the pattadar passbook was filed as additional evidence. Considering the details filed; this credit transaction is acceptable. Though the assessee has filed pattadar pass-book, there is no evidence to show that the said creditor cultivated the other agricultural land and earned that much income Thus the creditworthiness of this creditor is not proved. Accordingly the impugned addition made in respect of this creditor is confirmed.*

9. *Credit in the name of Sri K.Sirisha Aditya (Rs.2,00,000/-) :*

9.1. *The assessee had represented that this creditor was the assessee's son and has advanced the impugned amount out of the gifts received by the assessee's son at the time of birthday. However no supporting evidence was given. Hence, it is held that the creditworthiness of the creditor is not proved*

satisfactorily and the impugned addition in respect of this credit is confirmed.

10. Credit in the name of Sri K.V.Siva Satyanarayana (Rs.2,60,000/-):

10.1. The assessee has filed confirmation letter from this creditor, who is an employee in the Pharmacy shop of the assessee. It was claimed that the alleged creditor gave the impugned amount from the personal savings of his wife who is said to be teachers, and out of gift of Rs.2 lakhs received from his father out of his retirement benefits. However, in respect of these claims, no supporting evidence was filed. The creditworthiness of the party is not proved. Accordingly, the impugned addition made in respect of this credit is confirmed.

11. Credit in the name of Sri P.Radhakrishna (Rs.2,00,000/-):

11.1 During the assessment proceedings the assessee had given confirmation letter to P.Radhakrishna. In the confirmation letter it was stated that the said P.Radhakrishna owns 3.08 acres of agricultural land and he was also cultivating lands of his family members of an extent of 10 acres and that the income from agricultural lands was Rs.4,00,000/- per annum which was said to be given as loan to the assessee in small denomination. A copy of the pattadar passbook was also filed. Though the assessee has filed pattadar passbook, there is no evidence to show that the said creditor cultivated the other agricultural land and earned that much income. Thus the creditworthiness of this creditor is not proved. Accordingly the impugned addition made in respect of this creditor is confirmed.

12. Credit in the name of Sri Kasireddy Srinivas (Rs.1,00,000/-):

12.1 The assessee has filed confirmation letter from this creditor who is said to be a private medical practitioner and who has worked along with assessee's husband. It was stated that he had given loan of Rs.1,00,000/- out of his personal savings. During the appellate proceedings, the assessee has also filed a copy of the bank statement from the creditor Kasireddy Srinivas A perusal of bank statement filed show there was a cash deposit of Rs 14,000/- on 30.04.2008, of which Rs.15,000/- was withdrawn by cheque on 06.05.2008 (arriving opening balances). Subsequently, there was a cash deposit of Rs.1,00,000/- which was withdrawn and paid to Raju by way of cheque. Thus, no evidence was filed regarding the creditworthiness of this person. Accordingly the impugned addition made in respect of this credit is confirmed.

13. Credit in the name of Sri Pilli Venkateswara Rao (Rs.5,00,000/-):

13.1 The assessee had filed confirmation letter from this creditor. It was stated that this creditor and his family members owns 5.96 acres and also took lease land of 8 acres. It was stated that the income from this land was Rs.5,00,000/- and that out of the savings from agricultural income the amount of Rs.5 lakhs was given to the assessee. Copy of pattadar passbook was filed as additional evidence during the appellate proceedings. Though the assessee has filed pattadar pass-book, there is no evidence to show that the said creditor cultivated the other agricultural land and earned that much income. Thus the creditworthiness of this creditor is not proved. Accordingly the impugned addition made in respect of this creditor is confirmed."

5. During the appeal hearing, the Ld.AR vehemently argued that the creditors have filed the confirmation letters in all the cases and explained the sources, which was discussed in detail by the Ld.CIT(A) hence no addition is called for in the hands of the assessee. In the case of Smt.P.Nagamani, the Ld.AR argued that though the Ld.CIT(A) has given a passing remark that the credit transaction is acceptable, the Ld.CIT(A) has still confirmed the addition. The Ld.AR is of the opinion that since the confirmations were filed by the assessee and the identity is established, the Ld.CIT(A) should not have made the addition in the hands of the assessee.

6. On the other hand, the Ld.DR supported the orders of the Ld.CIT(A).

7. We have heard both the parties and perused the material placed on record. In this case, all the unsecured loans stated to have been received in cash, though the Income Tax Act places restriction on acceptance of loans

otherwise than by crossed account payee cheques. The assessee has not furnished the compelling reasons for accepting loans in cash in contravention of the provisions of section 269SS of the Act. The parliament in it's wisdom placed restrictions to accept the cash loans to arrest the black money and to bring more transparency in the financial dealings. In none of the creditors, the assessee had filed the evidence to show that the creditors had credit worthiness and capacity to advance such huge sums. In the case of Sri K.Satyanarayana, it is stated that the amounts were withdrawn in small amounts from ATM and advanced the said sums to the assessee which is unbelievable and unacceptable. In the case of Baby Syamala, the assessee has not filed any evidence to show that the creditor had the capacity to advance the sum of Rs.5 lakhs. In the case of P.Nagamani, she is holding 2.28 acres of agricultural land and advanced Rs.2 lakhs, which does not commensurate with the income earned by the assessee. In the case of Sri K.Sirisha Aditya , it is stated that the amounts were advanced out of the gifts received from the various donors on the occasion of the birthday, but no supporting evidence was submitted to the AO. In the case of KVS Satyanarayana, though he has stated that the advance was given out of the personal savings of his wife and father, no

supporting evidence was furnished and the credit worthiness not was established. In the case of P.Radhakrishna, the assessee is an agriculturist, but no evidence was furnished with regard to the cultivation of agricultural land and earning of the income. In the case of Kasireddy Srinivas, the transaction appearing in the bank passbook appears to be an accommodation entry and no evidence was filed by the assessee with regard to the credit worthiness of the person. In the case of P.Venkateswara Rao, though the assessee claimed to have earning agricultural income of Rs.5 lakhs, no evidence was filed by the assessee for earning such huge sum. From the above details, the assessee failed to furnish any evidence with regard to the earning of such huge sums with tangible evidence such as household cards, bank pass book etc.. Since the Ld.AR did not controvert the findings given by the Ld.CIT(A) with reliable evidence, we do not find any reason to interfere with the order of the Ld.CIT(A) and we uphold the order of the Ld.CIT(A) and dismiss the appeal of the assessee.

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

The above order was pronounced in the open court on 17th Aug, 2018.

Sd/- (वी.दुर्गा राव) (V. DURGA RAO) न्यायिक सदस्य/ JUDICIAL MEMBER विशाखापटणम /Visakhapatnam दिनांक /Dated : 17.08.2018 L.Rama, SPS	Sd/- (डि.एस. सुन्दर सिंह) (D.S. SUNDER SINGH) लेखा सदस्य/ ACCOUNTANT MEMBER
---	--

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee – Smt. Dr. Sugnam Bharathi, Sri Venkataramana Nursing Home, D.No.33-7-6, Suryalayam Street, Tanuku
2. राजस्व/ The Revenue – Income Tax Officer, Ward-2, Tanuku
3. The Commissioner of Income Tax, R
4. The Commissioner of Income Tax (Appeals), Visakhapatnam
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR, ITAT, Visakhapatnam
- 6.गार्डफ़ाईल / Guard file

// True Copy //

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, VISAKHAPATNAM