

**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. 116/VIZ/2017
(Asst. Year : 2009-10)**

Smt. Kamala Devi,
W/o Mahendra Kumar Jain,
Propx: Sri Raj Jewellers,
D.No. 34-1-28, Kakinada.

vs. ACIT, Central Circle,
Rajahmundry.

PAN No. AHDPK 3736 F
(Appellant)

(Respondent)

Assessee by : Shri P. Prabhakara Murthy, Adv.
Department By : Shri D.K. Sonawal – CIT DR

Date of hearing : 13/11/2018.
Date of pronouncement : 16/11/2018.

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 21/11/2016 for the Assessment Year 2009-10.

2. Facts of the case, in brief, are that assessee is carrying on the business of money lending and trade of gold and silver. A survey and seizure operation was conducted in the group cases of the assessee on 03/02/2009. The assessee had filed her return of income for the Assessment Year 2009-10 by declaring total

income of Rs. 3,06,000/-, the same was processed under section 143(1) of the Income Tax Act, 1961 (hereinafter referred to as 'Act'). Subsequently, it was converted into scrutiny by issuing notice under section 143(2) and thereafter assessment was completed under section 143(3) of the Act. In the assessment order, the Assessing Officer has observed that during the year under consideration, the assessee obtained loans from the following 05 persons:-

| Sl. No. | Name of the creditor | Date of loan taken | Amount (Rs.) |
|---------|--------------------------|--------------------|--------------|
| 1. | Sri J. Appa Rao | 06/06/2008 | 17,000 |
| 2 | Sri MVR Naidu | 15/04/2008 | 17,500 |
| 3 | Sri P. Venkateswara Rao | 25/04/2008 | 15,000 |
| 4 | Sri N.V. Chakradhar Babu | 28/04/2008 | 17,500 |
| 5 | Sri P. Prakash | 09/06/2008 | 15,000 |

The assessee has filed confirmation letters from all the five lenders. The Assessing Officer after considering the confirmation letters and submissions made by the assessee, he has observed that the assessee has failed to file the details and evidences with reference to the accumulation of the savings of the loan creditors. Accordingly, he disbelieved the entire explanation and confirmation letters issued by the creditors and added the entire amount of Rs. 82,000/- and interest in the hands of the assessee.

- 3.** On appeal, Id. CIT(A) confirmed the order of the Assessing Officer.
- 4.** On being aggrieved, assessee carried the matter in appeal before the Tribunal.
- 5.** Ld. counsel for the assessee has submitted that the assessee has borrowed small amounts from five parties, from whom confirmations letters have been taken and filed before the Assessing Officer. The assessee also explained the source of investment and interest along with principal amount paid to them. Therefore, the addition made by the assessee and confirmed by the Id. CIT(A) is not correct.
- 6.** On other hand, Id. Departmental Representative relied on the orders of the authorities below.
- 7.** We have heard both the sides, perused the material available on record and orders of the authorities below.
- 8.** The assessee has borrowed an amount of Rs. 82,000/- from five persons and interest of Rs. 8,748/- is also paid along with principal amount. The assessee has filed confirmation letters of the five parties along with their detailed addresses, wherein the creditors have explained the source of their income. The Assessing Officer made the addition on the ground that the assessee failed to explain the source of the loan creditors. The

confirmation letters itself clearly show the source of advance by the loan creditors, particularly, when the amounts so small, below Rs. 20,000/-, in our opinion, the Assessing Officer is not correct in rejecting the confirmation letters without any basis. By considering the entire facts and circumstances of the case, we are of the opinion that the addition made by the Assessing Officer and confirmed by the Id. CIT(A) is not correct. In view of the above, the order passed by the Id. CIT(A) is reversed. Thus, this appeal filed by the assessee is allowed.

9. In the result, appeal filed by the assessee is allowed.

Order Pronounced in open Court on this 16th day of Nov., 2018.

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

sd/-
(V. DURGA RAO)
Judicial Member

Dated : 16th November, 2018.

vr/-

Copy to:

1. The Assessee – Smt. Kamala Devi, W/o Mahendra Kumar Jain, Propx: Sri Raj Jewellers, D.No. 34-1-28, Kakinada.
2. The Revenue – ACIT, Central Circle, Rajahmundry.
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.