

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.504/Viz/2017  
(निर्धारण वर्ष/ Assessment Year :2009-10)

Kagitala Venkateswara Rao  
S/o Krishna Murthy  
D.No.5-141, Vegavaram  
West Godavari Dist.  
**[PAN : BBYPK3278C]**

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  
: Smt. Suman Malik, DR

सुनवाई की तारीख / Date of Hearing

: 20.11.2018

घोषणा की तारीख/Date of Pronouncement

: 28.11.2018

**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)], Vijayawada vide Appeal No.196/CIT(A)/VJA/2016-17 dated 14.02.2017 for the Assessment Year (A.Y)2009-10.

2. All the grounds of appeal are related to the addition made by the AO relating to trade creditors amounting to Rs.9,80,000/-. During the assessment proceedings, the Assessing Officer(AO) found that the assessee has accepted the unsecured loans to the extent of Rs.9,80,000/-. The assessee failed to furnish the details of the unsecured loans and their sources for the amount of loans with supporting evidences. Hence, the AO treated that the assessee has no explanation, accordingly made the addition u/s 68 of the Income Tax Act, 1961 (hereinafter called as 'Act').

3. Aggrieved by the order of the AO, the assessee went on appeal before the CIT(A). The Ld.CIT(A) confirmed the addition since the assessee did not furnish any evidence to support the genuineness of unsecured loan. For the sake of clarity and convenience, we extract relevant part of the order of the Ld.CIT(A) which reads as under :

*"6.3. The claim of appellant in Ground of Appeal No.3 that a sum of Rs.9,80,000/- represented trade creditors is neither comprehensible nor supported by any evidence. In liquor trade business, all purchases are from A.P.State Breweries Corporation and all purchases are affected only after making advance payment. There can be no outstanding amount payable for purchase of liquor. Andhra Pradesh High Court's decision in the case of Maddi Suddarsanam Oil Mills Co. Vs. CIT (1959) 37 ITR 369 is not applicable as A.O., did not reject books of account. On the contrary, no books of account were produced before him. Hence, appellant failed to prove the genuineness of unsecured loan either before A.O. or during appeal proceedings. Hence, the addition made on account of unsecured loan creditors amounting to Rs.9,80,000/- is hereby confirmed. Ground of appeal No.3 is dismissed.*

6.4. *A.O. had not specified the bank account details. He did not get relevant bank account copy either from appellant or bank authorities. The bank deposits may be related to sale proceeds / loan receipts etc. Without analysing them, A.O. cannot hold the same as appellant's additional turnover since already appellant's income is estimated on turnover basis, no separate addition of Rs.1,69,859, in my view, is warranted. Further, this amount may get telescoped into other additions of Rs.6,01,700/- and Rs.9,80,000/-, Hence, addition of Rs.1,69,859/- is directed to be deleted."*

4. Aggrieved by the order of the CIT(A), the assessee filed appeal before this Tribunal. The assessee's main contention is that once the books of accounts are rejected, there is no requirement of making addition u/s 68 towards trade creditors. Since the assessee filed confirmation letters, addition is unjustified and the assessee was not provided the sufficient opportunity.

5. We have heard both the parties and perused the material placed on record. In this case, the assessee has accepted the unsecured loans during the year under consideration and the assessee failed to furnish the details and the confirmations along with the sources and the relevant documentary evidences before the AO. The assessee also did not produce any evidence to support the claim before the Ld.CIT(A) to support the unsecured loans. The assessee in the grounds of appeal as well as before the CIT(A) argued that the unsecured creditors are trade creditors. In this case, the assessee is in liquor business and the liquor is purchased from

A.P.State Breweries Corporation and the purchases are made after making advance payments. Therefore, the question of trade creditors does not arise. The assessee has never produced the books of accounts before the AO. Therefore, the AO estimated the net profit on the turnover. The assessee has not proved that the unsecured loans were generated out of the regular income and out of sale proceeds. Therefore, there is no case for allowing telescopic benefit. Similarly, the argument of the assessee that once the books of accounts are rejected, there is no requirement of making addition separately, under the head ‘trade creditors’ does not hold water since the creditors are unsecured loans but not trade creditors as observed by the Ld.CIT(A). It is the obligation of the assessee to establish the identity, credit worthiness and the genuineness of the unsecured loans. Since the assessee failed to establish the genuineness and credit worthiness of the loans we do not find any infirmity in the order of Ld.CIT(A) and the same is upheld. Accordingly, the appeal of the assessee is dismissed.

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

Order pronounced in the open court on 28<sup>th</sup> November, 2018.

Sd/-

(वी.दुर्गा राव)

**(V. DURGA RAO)**

न्यायिक सदस्य/**JUDICIAL MEMBER** लेखा सदस्य/**ACCOUNTANT MEMBER**

विशाखापटणम /Visakhapatnam

दिनांक /Dated : 28.11.2018

L.Rama, SPS

Sd/-

(डि.एस. सुन्दर सिंह)

**(D.S. SUNDER SINGH)**

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

1. अपीलार्थी / The Appellant - Kagitala Venkateswara Rao, S/o Krishna Murthy, D.No.5-141, Vegavaram, West Godavari Dist.
2. प्रत्यार्थी / The Respondent – The Income Tax Officer, Ward-2, Tanuku
3. The Pr.Commissioner of Income Tax, Rajahmundry
4. The Commissioner of Income Tax (Appeals),Vijayawada
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम /DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

// True Copy //

Sr. Private Secretary  
ITAT, VISAKHAPATNAM