

**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. 268/VIZ/2018
(Asst. Year : 2011-12)**

M/s. Sai Priyanka Housing Projects (P) Ltd.,
D.No. 28-9-68/4,
Municipal Shopping Complex,
Jampeta, Rajahmundry

vs. ITO, Ward-2(2),
Rajahmundry.

PAN No. AAJCS 9389 N
(Appellant)

(Respondent)

Assessee by : Shri G.V.N. Hari – Advocate.
Department By : Shri D.K. Sonawal – CIT DR

Date of hearing : 29/01/2019.
Date of pronouncement : 06/02/2019.

ORDER

PER V. DURGA RAO, JUDICIAL MEMBER

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), Rajahmundry, dated 22/03/2018 for the Assessment Year 2011-12.

- 2.** The only issue involved in this appeal relates to loan taken by the assessee from Smt. R. Radha of Rs. 5.00 lakhs.
- 3.** In the course of assessment proceedings, the assessee has not filed the details of loan taken before the Assessing Officer. On

appeal before the Id. CIT(A), he filed all the details, such as bank statement, PAN card. After perusing the same, Id. CIT(A) has expressed his opinion that *prima-facie* the credit transaction can be taken as proved. However, the details were not filed before the Assessing Officer, the matter has been remitted back to the Assessing Officer for limited purpose to examine the details and pass the orders in accordance with law. In pursuance to the order passed by the Id. CIT(A), the Assessing Officer has passed a consequential order by issuing a letter dated 06/04/ 2016 and directed the assessee to file the bank statements and PAN cards on or before 21/04/2016. As the assessee failed to file the details, the Assessing Officer confirmed the addition.

4. On appeal before the Id. CIT(A), assessee has filed bank statement in respect of amount of Rs. 5.00 lakhs borrowed from Smt. R. Radha. However, the Id. CIT(A) is of the opinion that though the Assessing Officer has given sufficient opportunity to file the details, the assessee has not utilized the same and only filed a letter dated 19/05/2016, therefore, he confirmed the order of the Assessing Officer.

5. On appeal before us, Id. counsel for the assessee has submitted that the time given by the Assessing Officer is very short period i.e. 15 days, therefore, assessee could not file the

details, but filed the same vide letter dated 19/05/2016, by the time the Assessing Officer has already passed the assessment order. Therefore, submitted that the Id. CIT(A) ought to have been considered the bank statement filed by the assessee which is pointed out from the paper book at page No. 7 and submitted that the same may be considered and addition may be deleted.

6. On the other hand, Id. Departmental Representative strongly supported the orders passed by the authorities below.

7. We have heard both the sides, perused the material available on record and orders of the authorities below.

8. The addition made by the Assessing Officer is in consequence to the order passed by the Id. CIT(A) in respect of Rs. 5.00 lakhs received from Smt. R. Radha. The Assessing Officer has issued a notice, dated 06/04/2016 to the assessee to appear on or before 21/04/2016. The time given by the Assessing Officer is only 15 days and therefore, the assessee is not able to file the bank statement before the Assessing Officer, however, he has filed the same on 19/05/2016, by the time the Assessing Officer completed the consequential order on 03/05/2016. On appeal before the Id. CIT(A), assessee has filed a bank statement, however, the Id. CIT(A) has not considered the same on the ground that the Assessing Officer has given sufficient time, which

was not utilized by the assessee, therefore, he confirmed the order of the Assessing Officer. We find from the paper book at Page No. 7 that the amount received by the assessee of Rs. 5.00 lakhs from Smt. R. Radha through RTGS on 30/03/2011, therefore, by considering the facts and circumstances of the case and in the interest of justice, the issue has to be remitted back to the Assessing Officer to consider the bank statement filed at page No.7 in the paper book. Therefore, we set aside the order passed by the Id. CIT(A) and remit the matter back to the Assessing Officer to consider the bank statement and pass an order in accordance with law. Thus, this appeal filed by the assessee is allowed for statistical purposes.

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

Order Pronounced in open Court on this 06th day of Feb., 2019.

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

sd/-
(V. DURGA RAO)
Judicial Member

Dated: 06th Feb., 2019.

vr/-

Copy to:

1. *The Assessee -M/s. Sai Priyanka Housing Projects (P) Ltd., D.No. 28-9-68/4, Municipal Shopping Complex, Jampeta, Rajahmundry*
2. *The Revenue -ITO, Ward-2(2), Rajahmundry.*
3. *The Pr.CIT, Rajahmundry.*
4. *The CIT(A), Rajahmundry.*
5. *The D.R., Visakhapatnam.*
6. *Guard file.*

By order

(VUKKEM RAMBABU)
Sr. Private Secretary,
ITAT, Visakhapatnam.