

**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. 170/VIZ/2017  
(Asst. Year : 2010-11)**

Arumalla Venugopala Reddy, vs. ITO, Ward-2(3),  
D.No. 3-642/1, Undavalli, Guntur.  
Guntur District.

PAN No. ADIPA 4347 H  
(Appellant)

(Respondent)

Assessee by : Shri I. Kama Sastry – CA.  
Department By : Shri D.K. Sonawal – CIT DR

Date of hearing : 10/01/2019.  
Date of pronouncement : 20/03/2019.

**ORDER**

**PER V. DURGA RAO, JUDICIAL MEMBER**

This appeal by the assessee is directed against the order of Principal Commissioner of Income Tax, Guntur, dated 25/01/2017 for the Assessment Year 2010-11.

**2.** Facts of the case, in brief, are that the assessee is an employee of a private organization and deriving income from salary, rents & interest. In response to the notice issued under section 148 of the Act, dated 07/01/2014, assessee filed his return of income admitting total income of Rs. 9,26,334/-

including long term capital gain of Rs. 6,84,449/-. The Assessing Officer has completed the assessment under section 143(3) r.w.s. 148 on 31/03/2015 by making addition under section 50C of Rs.4,84,700/- and assessed income of Rs. 13,11,030/-. Subsequently, by virtue of powers vested under section 263, the Pr.CIT has called the records, examined and found that the Assessing Officer not made any enquiry in respect of gifts received by the daughter of the assessee and therefore, order passed by the Assessing Officer is erroneous and prejudicial to the interests of the Revenue and issued show-cause notice dated 03/11/2016 called explanation from the assessee. The assessee has filed a detailed reply, which is reproduced as under:-

"1. *I am a retired Indian Army employee. I have performed marriage of my only daughter Miss Deepthi Arumalla with Pramodh Reddy Sanga S/o Prakash Reddy on 07/04/2010. On the occasion of her marriage my relatives have given cash gifts of Rs.30,16,116/-to her. She has also received on such occasion gold jewellery as gifts from her grand and great grandmother. In reply to a query raised I have furnished detailed list of such gifts before the Assessing Officer during the course of assessment proceedings. As Sri Prakash Reddy Sanga has demanded dowry I have given Rs.30 lakhs out of such gifts at the request of my daughter and Rs.10 lakhs out of my drawings of Rs.11,34,025/-. As per our family customs entire marriage expenses are to be borne by the bridegroom parents and accordingly I have not met any such expenditure. The cash gifts as well as jewellery gifts were given by my relatives only to my daughter on the occasion of her marriage. I am under the impression that the gifts received by my*

daughter on the occasion of her marriage are exempt from tax.

2. During the year I have sold one of my properties for Rs.8,07,300/- and offered gain of Rs.6,84,449/- as income and paid necessary taxes.
3. While preparing the statements, inadvertently, investment of Rs.2,25,000/included in sundry debtors of Rs.7.00 lakhs, I have submitted revised financial statements wherein investment in shares shown separately and the other Rs.4.75 lakhs are due from some of my relatives from whom I have never charged any interest.

In view of above submissions what I have claimed in our return of income is in order and nothing is prejudicial to the interest of revenue. Therefore the order passed by the learned Assessing Officer is not erroneous in so far as prejudicial to the interest of revenue and not required to be set-aside."

3. The Pr.CIT after considering the explanation of the assessee, he has observed as under:-

"4. I have considered the submissions made by the appellant. On verification of record, it is noticed that the AO has not examined the above issues properly. The jewellery is stated to be received from grand and great grandmothers namely Smt.B.Thirupathamma and Smt. A.Sarajamma (mother and grand-mother of assessee) totaling to 70 tulas. With regard to cash gifts, there are 3 persons stated to have given Rs.4 lakhs each, one person giving Rs.3 lakhs, 4 persons giving Rs.2 lakhs each, one person giving Rs.1.6 lakhs, 2 persons giving Rs.1 lakhs each and one person giving Rs.51,116/-, all totaling to Rs.26.6 lakhs. The rest of the gifts range between Rs.5 to 10 thousand except one which is Rs.20,000/-. Apart from these amounts, the assessee himself given an amount of Rs.10 lakhs out of his own sources. While completing the assessment the Assessing Officer has not verified the above issues thoroughly. The AO has totally relayed on the enquiry report of the office Inspector who has obtained confirmations from only 4 donors out of total 51 donors. Even though giving cash gifts at the time of marriage in Hindu families by near & dear, giving Shri Dhan in the form of lands & gold to Hindu women on the occasion of marriage is a prevailing

*custom, the Assessing Officer should examine the genuineness of the transactions. During the course of assessment proceedings, the A O has failed to consider relevant factors, the issues such as credit worthiness and capacity of the donors, probability of human nature as well as evidence of earlier gifts between these parties as reciprocal." Further, the assessee has replied that while preparing the statements, inadvertently, investment of Rs.2,25,000/- included in sundry debtors of Rs.7.00 lakhs and submitted revised financial statements wherein investment in shares shown separately and the other Rs.4.75 lakhs are due from some of his relatives from whom he never charged any interest. This issue also to be examined. Hence, the order passed by the A.O. u/s.143(3) dt.09/03/2015 is erroneous & prejudicial to the interests of revenue. Since, the AO has missed his attention to consider the above at the time of concluding the assessment, the AO is directed to examine all the issues on record and accordingly decide the issue in accordance with law."*

The Pr.CIT by observing above, set aside the order passed by the Assessing Officer dated 31/03/2015 and directed the Assessing Officer to redo assessment in the lines indicated above.

**4.** On being aggrieved, assessee carried the matter in appeal before this Tribunal.

**5.** Ld. Authorized Representative for the assessee has submitted that during the course of assessment proceedings, the Assessing Officer has examined the issue and called the confirmation letters, same have been filed by the assessee and after considering all the details, the Assessing Officer has passed the assessment order under section 143(3) r.w.s. 148 of the Act, hence, it cannot be said that the order passed by the Assessing

Officer is erroneous and prejudicial to the interests of the Revenue. Therefore, the order passed by the Pr.CIT may be cancelled. Ld. AR has also pointed out from the paper book at page No. 19 to 70 in respect of confirmation letters, gifts received by the assessee's daughter.

**6.** On the other hand, Id. Departmental Representative has strongly supported the order passed by the Pr.CIT.

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

**8.** The case of the Pr.CIT is that assessee in his sworn statement dated 09/02/2015 admitted that he gave Rs. 40.00 lakhs as dowry at the time of his daughter's marriage and explained the source to the extent of 30.00 lakhs and out of Rs.10.00 lakhs, sale proceeds of industrial site for Rs. 8.07 lakhs. The assessee also repaid housing loan of Rs. 2,14,285/-. The assessee also invested in shares, purchased gold and made some advances to the tune of Rs. 7.00 lakhs during the year. Therefore, Pr.CIT is of the opinion that the Assessing Officer has not examined these aspects, therefore, order passed by the Assessing Officer is erroneous and prejudicial to the interests of the Revenue. We find from the paper book at page Nos. 17 & 18, which is a sale deed, dated 30/01/2010 filed by the assessee

before the Assessing Officer is for Rs. 8,07,300/-, page No. 19 of the paper book is a confirmation letter of assessee's daughter wherein she stated that on the occasion of marriage on 07/04/2010, her relatives had given gifts of about Rs. 30.00 lakhs apart from gold jewellery from her grand and great grandmothers. Page No. 20 is the reply filed by the assessee in response to the notice issued by the Assessing Officer, which was followed by another reply at page No. 21. The assessee also filed confirmation letters before the Assessing Officer which are placed at page Nos. 22 to 63 of the paper book. The Assessing Officer after examining the details filed by the assessee and also considering the confirmation letters and source explained by the assessee, assessment was completed. We, therefore, are of the opinion that when the Assessing Officer after examining the details by calling remand report and also considering the confirmation letters and other details filed by the assessee, assessment is completed. Therefore, the assessment order passed by the Assessing Officer cannot be said that it is erroneous and prejudicial to the interests of the Revenue. We find that Pr.CIT without appreciating the exercise done by the Assessing Officer simply set aside the assessment order dated 31/03/2015 and directed the Assessing Officer to redo the assessment . We find that order passed by the

Pr.CIT deserves to be set aside. Accordingly, we set aside the order passed by the Pr.CIT. 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 20<sup>th</sup> day of March, 2019.

sd/-  
**(D.S. SUNDER SINGH)**  
**Accountant Member**

sd/-  
**(V. DURGA RAO)**  
**Judicial Member**

**Dated: 20<sup>th</sup> March, 2019.**

**vr/-**

*Copy to:*

1. *The Assessee - Arumalla Venugopala Reddy, D.No. 3-642/1, Undavalli, Guntur District.*
2. *The Revenue- ITO, Ward-2(3), Guntur.*
3. *The Pr.CIT, Guntur.*
4. *The D.R., Visakhapatnam.*
5. *Guard file.*

By order

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