

**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. 163/VIZ/2018
(Asst. Year : 2012-13)**

Tankala Suresh,
Prop. : Sri Venkateswara
Metal Industries, Kusalapuram
Village, Srikakulam.

vs. ITO, Ward-2,
Srikakulam.

PAN No. ABSPT 2677 H
(Appellant)

(Respondent)

Assessee by : Shri S.V. Satyanarayana-Adv.
Department By : Smt. Suman Malik - Sr.DR

Date of hearing : 02/04/2019.
Date of pronouncement : 05/04/2019.

ORDER

PER V. DURGA RAO, JUDICIAL MEMBER

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-9, Hyderabad, dated 27/03/2018 for the Assessment Year 2012-13.

2. The grievance of the assessee in this appeal is with regard to two additions. First addition in respect of Rs. 1,80,000/- and second addition in respect of Rs. 6,50,000/-.

3. So far as addition of Rs. 1,80,000/- is concerned, the Assessing Officer has noted that the assessee has claimed

compensation of Rs. 1,80,000/-. When the Assessing Officer asked the assessee why this payment was not recorded in the books of account, it was submitted by the assessee that the assessee is having earlier years savings and same is paid to the employee. The Assessing Officer has not considered the explanation of the assessee and observed that the explanation given by the assessee is not acceptable as the transaction is not recorded in the books of account. Accordingly, it is treated that same was paid out of his income from the undisclosed sources and added to the total income of the assessee.

4. On appeal, Id. CIT(A) confirmed the order of the Assessing Officer.

5. Even before us, the assessee has not given any reasonable explanation to substantiate his case. We have gone through the orders of the Assessing Officer as well as Id. CIT(A). We find no reason to interfere with the order passed by the Id. CIT(A). Thus, this ground of appeal raised by the assessee is dismissed.

6. Insofar as addition in respect of Rs. 6,50,000/- is concerned, in the assessment order, the Assessing Officer has noted that on 23/09/2015 during 131 proceedings (post survey proceedings), the assessee was asked to explain the sources for Rs. 8,15,280/- towards the contributions made to Margadarsi Chit Funds and

Shriram Chit Funds Ltd. In response, the assessee has stated that he was in receipt of gifts from his mother and brothers to the extent of Rs. 6,50,000/- and filed the provisional balance sheet, profit & loss account and capital account, as per which the gifts are at Rs. 6,50,000/- and the opening balance in the capital account is at Rs. 10,66,407/-. The assessee further stated that he will produce the necessary confirmations and evidences later. However, while filing the return for the A.Y. 2012-13, the assessee had brought down these gifts to Rs. 3.00 lakhs and also filed confirmations to that effect in the course of assessment proceedings. It may be noted that the opening balance in the capital account is increased to Rs. 17,55,782/-. It is worthwhile to mention here that in the case of assessee for the A.Y. 2011-12, the revised return of the assessee was rejected and the deposits in the undisclosed bank account were brought to tax as unexplained credits in the bank account. Whereas, the assessee declared an amount of Rs. 4,95,027/- towards commission on the sales treating the said deposits in the bank as sales. Thus, he brought Rs. 4,95,027/- to his capital account for the A.Y. 2011-12 and accordingly the opening balance for the A.Y. 2012-13 is increased to Rs. 17,55,782/-. Since the assessee's capital is increased, the assessee decreased his gifts to Rs. 3.00 lakhs as he

did not find any necessity to bring Rs. 6,50,000/- as gifts to his capital. This clearly indicates that the assessee is manipulating his accounts to his comfort and is not consistent on his statements and depositions. Further, the confirmations filed by his mother and brothers were verified and it is noticed that all the three persons were not assessed to tax and it is further noted that mother says she has given the gift from her streedhana and small earnings from preparation and sale of eatable items and miscellaneous interest and both the brothers have stated that they are doing petty business and given these amounts out of love and affection. As such, these confirmations cannot be treated as genuine since the creditworthiness of the donors is not established. Accordingly, Assessing Officer has treated the amount of Rs. 6,50,000/- as undisclosed income of the assessee and the same is added to his returned income.

7. On appeal, Id. CIT(A) confirmed the order of the Assessing Officer.

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

9. Ld. counsel for the assessee has submitted that though the assessee initially admitted that the amount of Rs. 6,50,000/- received from his mother and brothers as a gift, but subsequently

after verification of the accounts it is brought to the notice of the Assessing Officer that assessee has received only Rs. 3.00 lakhs and filed confirmation letters and all the details before him.

10. On the other hand, Id. Departmental Representative strongly supported the orders of the authorities below.

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

12. The case of the assessee is that he received gifts from his mother and two brothers to the extent of Rs. 6,50,000/- and the same is invested in the Margadarsi Chit Funds and Shriram Chit Funds Ltd. To that effect, assessee has filed a provisional balance sheet, profit & loss account and capital account before the Assessing Officer. Subsequently, the assessee has submitted that he only received Rs. 3.00 lakhs, but he has not given any reason why he stated earlier before the Assessing Officer that he received Rs. 6,50,000/-. He has also not given any explanation before the Id.CIT(A) even before us except stating that assessee received only Rs. 3.00 lakhs. Therefore, the argument of the assessee's counsel cannot be accepted as per the statement of the assessee himself and the details filed before the Assessing Officer that assessee received Rs. 3.50 lakhs. So far as creditworthiness of the transaction is concerned, the assessee is carrying business of

manufacturing and sale of steel and brass ware; his mother is not doing any business or any employment, she is only doing petty works for her survival; his brothers are not doing any business, they are doing small works for their survival. The explanation of the assessee is highly unbelievable and cannot be accepted. Therefore, we find that the assessee failed to establish the creditworthiness of the creditors i.e. mother and his two brothers to the extent of Rs.6,50,000/-. Therefore, we find that the Assessing Officer has rightly made the addition and the same is confirmed by the Id. CIT(A). We find no reason to interfere with the order passed by the Id. CIT(A) on this issue. Thus, this ground of appeal raised by the assessee is dismissed.

13. In the result, appeal filed by the assessee is dismissed.

Order Pronounced in open Court on this 05th day of April, 2019.

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

sd/-
(V. DURGA RAO)
Judicial Member

Dated: 05th April, 2019.

vr/-

Copy to:

1. *The Assessee – Tankala Suresh, Prop. : Sri Venkateswara Metal Industries, Kusalapuram Village, Srikakulam.*
2. *The Revenue - ITO, Ward-2, Srikakulam.*
3. *The Pr.CIT-2, Visakhapatnam.*
4. *The CIT(A)-9, Hyderabad.*
5. *The D.R., Visakhapatnam.*
6. *Guard file.*

By order

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