

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH "B", HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER**

ITA No.185/Hyd/2019		
Assessment Year: 2015-16		
Rexo Flex Private Limited, Hyderabad. PAN: AABCR 8998 Q	Vs.	Income Tax Officer, Ward-3(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Sri K.C. Devdas	
Revenue by:	Smt. V. Aparna, DR	
Date of hearing:	03/06/2019	
Date of pronouncement:	12/06/2019	

ORDER

PER A. MOHAN ALANKAMONY. AM:

This appeal is filed by the assessee against the order of the CIT(A)-3, Hyderabad dated 19/11/2018 for the assessment year 2015-16. The assessee has raised the following grounds in its appeal:-

- “1. The order of the CIT(A) in upholding the order of the Assessing Officer is erroneous and unlawful on facts of the case as well as in law.
2. The Ld. CIT(A) erred in confirming the addition of Rs. 47,70,000/- in respect of sum advanced by Smt. Aparna.
3. The Ld. CIT(A) failed to consider the documentary evidences duly submitted by the appellant to prove the identity, genuineness and credit worthiness of the creditor from whom the loans were taken.
4. The Ld. CIT(A) erred in concluding that the provisions of section 40A were applicable in appellant's case.
5. any other ground(s) that may be urged at the time of hearing.”

2. Brief facts of the case are that the assessee-company is engaged in the business of 'trading of polymers' filed its return of income for the A.Y. 2015-16 on 29/09/2015 declaring total income of Rs. 42,40,654/-. Subsequently, the case was selected for scrutiny and after due process, the Ld.A.O. completed the assessment u/s 143(3) of the Act and the assessed income was determined at Rs. 89,40,654/-. During the assessment proceedings, Ld.A.O. noticed that there is an increase of unsecured loans to the tune of Rs. 1,06,73,441/- as compared to the previous year and therefore the assessee was asked to furnish the details of unsecured loans received during the year along with the confirmation letters, bank statements, return of income of the lender etc. In reply, the assessee submitted the confirmation letters of Sri R. Aravind and ledger extracts and bank account copies of Smt. M. Aparna and Sri M. Rambabu. On verification of the documents submitted by the assessee, Ld.A.O. noticed that the return of income filed by Smt. M. Aparna is an invalid return and therefore, the genuineness and creditworthiness of the unsecured loan extended by her could not be established. Therefore the Ld.A.O. treated the unsecured loan to the tune of Rs. 47,00,000/- obtained from Smt. M. Aparna as unexplained credit in the hands of the assessee and brought it to tax.

3. Aggrieved by the Order of the Ld.AO., the assessee filed an appeal before the Ld.CIT(A). Before the Ld.CIT(A) it was submitted that the bank statements produced by the lender are tallied with the books of account

as well as the bank statements of the assessee-company but the Ld AO had not considered the same while arriving at his decision. However, the Ld CIT (A) rejecting the submission concurred with the view of the Ld AO and further held that Smt. M. Aparna being employee/Director of the appellant-company, provisions of section 40A of the IT Act will be attracted by which certain expenses / payments are not deductible in certain circumstances and thereby confirmed the order of the Ld AO.

4. At the outset Ld AR submitted before us that the assessee had furnished all the requisite particulars of Smt. M. Aparna regarding her bonafide source of loan extended to the assessee-company and further referred to the paper book page no. 24 to 28 wherein the income tax return filed by Smt. M. Aparna for the AY 2015-16 was enclosed. In the Income Tax Return it was mentioned that Smt. M. Aparna had received an amount of Rs. 28,32,972/- on maturity of the ICICI Prudential Life Insurance Policy and also received gift of Rs. 7,87,230/- from Mr. R. Aravind Kumar (USA). It was further submitted that the Ld AO as well as the Ld CIT (A) had not considered these documents filed before them while arriving at their decision. It was therefore pleaded that the matter may be remitted back to the file of the Ld AO for fresh consideration. The Ld DR could not controvert to the submission of the Ld AR before us.

5. We heard the rival submissions and carefully perused the materials on record and we find merits in the submission of the Ld AR. As pointed

out by the Ld AR it is evident from Income Tax Return filed by Smt. M. Aparna that she has disclosed the source for Rs. 28,32,972/- and Rs. 7,87,230/- enclosed in paper book page no.28 submitted by the assessee. It also apparent from the facts of the case that the Ld Revenue Authorities have not examined the lender Smt. M. Aparna who is also the employee / Director in the appellant company. Since the Ld.AO has not made any enquiry with respect to the lender or examined and verified the documents submitted by the assessee and further rejected the same without any basis, we do not find any merit in the addition made by the AO doubting the genuineness and creditworthiness of the lender. However, as prayed by the Ld.AR, in the interest of justice, we hereby remit the matter back to the file of the Ld AO for denovo consideration and also further direct the Ld AO to conduct proper enquiries with the lender and examine all the relevant documents furnished by the assessee and thereafter decide the matter in accordance with merit and law.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Pronounced in the open Court on 12th June, 2019.

Sd/-	Sd/-
(P. MADHAVI DEVI)	(A. MOHAN ALANKAMONY)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Hyderabad, Dated: 12th June, 2019

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Copy to:-

1)	M/s. Sekhar & Co., 133/4, RP Road, Secunderabad.
2)	Income Tax Officer, Ward-3(1), Hyderabad.
3)	The CIT(A)-3, Hyderabad
4)	The Pr. CIT-3, Hyderabad
5)	The DR, ITAT, Hyderabad
6)	Guard File