

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI

श्री धुव्वुरु आर.एल. रेड्डी, न्यायिक सदस्य एवं
श्री एस. जयरामन, लेखा सदस्य के समक्ष

BEFORE SHRI DUVVURU R.L. REDDY, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./**ITA Nos.1068 & 1069/Chny/2018**
निर्धारण वर्ष /**Assessment Years: 2003-04 & 2004-05**

Smt.V.K.Sasikala,
C/o.K.Soundaravelan, FCA
Flat No.16, Gyan Apartments,
New No.38, Venkatraman Street,
T.Nagar, Chennai-600 017.

Vs. The Asst. Commissioner-
of Income Tax,
Central Circle-II(2),
Chennai.

[PAN: AMNPS 6598 J]

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by

: Mr. T.Vasudevan, Adv.

प्रत्यर्थी की ओर से /Respondent by

: Mr. AR.V.Sreenivasan, JCIT

सुनवाई की तारीख/Date of Hearing

: 08.07.2019

घोषणा की तारीख/Dt. of Pronouncement

: 26.08.2019

आदेश / O R D E R

PER SHRI DUVVURU R.L. REDDY, JUDICIAL MEMBER:

These are two appeals filed by the assessee against the order of the Commissioner of Income Tax (Appeals)-18, Chennai, in ITA No.123/09-10 and in ITA No.116/07-08 dated 31.01.2018 for the AYs 2003-04 & 2004-05 respectively.

2. The only grievance of the assessee's case is that the Ld.CIT(A) erred in confirming the addition of Rs.5,31,435/- as unexplained credits in the

current account of M/s.Metal King. The assessee has raised the following grounds of appeal:

For the AY 2003-04:

1. *The order of the Commissioner of Income-tax(Appeals) in so far as it is against the assessee is contrary to law, erroneous and unsustainable on the facts of the case.*
2. *The CIT(A) erred in confirming the addition of Rs.5,31,435/- as unexplained credits in the current account of M/s.Metal King.*
3. *The CIT(A) failed to appreciate that the addition on the premise that the difference between the total credits of Rs.16,25,925/- in the current a/c of IOB and the sales as per P & L a/c of Rs.10,94,490/- represents the unexplained credits is fallacious and hence confirming the addition was wholly unsustainable on facts.*
4. *The CIT(A) further failed to appreciate that the entire credits in the bank account had duly explained with reference to the regularly maintained books of accounts and hence confirming the addition as unexplained credits was wholly unjustified and unsustainable on facts of the case.*
5. *The CIT(A) further failed to appreciate that the deposits in the bank account consisted of realization of various parties of Rs.7,30,922/-, cash deposits of Rs.1,60,000/-, cheque from Namathu MGR of Rs.7,00,000/- (another sole proprietrix concern of the Appellant) and another cheque deposit for Rs.35,000/- from one Mr.Muthukumaran and duly considering the explanation of assessee, the addition needs to be deleted.*
6. *The CIT(A) further failed to appreciate that the assessee having discharged the onus cast upon her of explaining the credits, sustaining the credits as unexplained was unjustified.*
7. *The CIT(A), in any view of the matter, ought to have duly considered the contentions of assessee in the proper perspective and deleted the addition of the amount.*

For the AY 2004-05:

1. *The order of the Commissioner of Income-tax(Appeals) in so far as it is against the assessee is contrary to law, erroneous and unsustainable on the facts of the case.*
2. *The CIT(A) erred in confirming the addition as unexplained credits of Rs.29,60,000/- in Jaya Printers and Rs.22,50,000/- in metalking being the credits in the respective capital accounts.*
3. *The CIT(A) failed to appreciate that the assessee had discharged the onus of proving the credits in the capital accounts of the two concerns i.e M/s.Jaya Printers and M/s.Metalking in which she is a sole proprietrix by way of furnishing the account copies of the firm Kodanad Estate, and hence confirming the addition was wholly unsustainable on the facts of the case.*
4. *The CIT(A) further failed to appreciate that as a partner in Kodanad Estate, the assessee had withdrawn amounts on various dates and credited the same in the capital account of her two sole proprietrix concerns, which is evident from the entries in the respective account copies and therefore confirming the addition as unexplained credits is without appreciation of the facts on record.*
5. *The CIT(A) further failed to appreciate that the total withdrawal from Kodanad Estate in the year was Rs.50,25,000 and the entire amount along with Rs.3,00,000/- transferred from Canara Bank SB a/c had been credited in the capital accounts of assessee in Jaya Printers and Metalking and on a due consideration of the same, the addition needs to*

be deleted. Further M/s.Kodanad Estate (PAN NO.AABFT9733C) assessed to income tax by the same Assessing Officer, filed the return of income on 01.11.2004 (due date of filing the return of income 31.10.2004 Sunday) where the partner's account copies are filed which shows that there is a withdrawal of Rs.50,25,000/-.

6. *The CIT(A) further failed to appreciate that the rejection of the explanations of the credits in the capital accounts of her two sole proprietrix concerns was only on surmises and in the absence of any material to disprove the account entries regularly maintained, the addition of the amounts as unexplained was unjustified and cannot be upheld.*
7. *The CIT(A), in any view of the matter, having due regard to the explanations and evidences furnished, held that the assessee had discharged the onus of proving the credits in the capital accounts of the two sole proprietrix concerns and thus deleted the additions.*

3. Briefly, the facts of the case are that the assessee did not file return of income for the AY 2003-04, hence notice u/s.142(1) has been issued and served on the assessee. The assessee filed her return of income on 01.03.2004 declaring total taxable income of Rs.1,78,07,240/- and agricultural income of Rs.2,45,400/-. The case was selected for scrutiny and notices issued u/s.143(2) & u/s.142(1) calling for certain information. After considering the details filed by the assessee, the AO made addition of Rs.5,31,435/- on the ground that the difference between the gross receipts of Rs.16,25,925/- and Rs.10,94,490/- which was reflected in the P&L A/c of M/s.Metal King, was not duly reconciled.

4. On aggrieved, the assessee preferred an appeal before the Ld.CIT(A). After considering the submissions of the assessee, the Ld.CIT(A) confirmed the addition made by the AO saying that no reconciliation was made either before the AO during the course of assessment proceedings or before the first appellate proceedings. On being aggrieved, the assessee preferred an appeal before the Tribunal. The Ld.Counsel for the assessee submitted that he had already filed

details and reconciliation before the AO as well as the First Appellate Authority. He further submitted that he filed the reconciliation along with the appeal papers. He further submitted that the Hon'ble Bench may be pleased to remit this issue to the file of the AO to examine this issue afresh.

5. Per contra, on the other hand, the Ld.DR has submitted that the assessee did not file these details before the lower authorities and therefore the orders passed by the Ld.CIT(A) be confirmed.

6. We have heard both the parties, perused the materials available on record and gone through the orders of the authorities below. The Ld.AR filed certain details relating to the cash credits before us. Undisputedly, the authorities below have not looked into the details filed by the assessee. Therefore, we are of the firm view that in order to meet principles of natural justice, we feel that it is a fit case to remit back to the file of the AO to decide this issue afresh after considering the details filed by the assessee after giving adequate opportunity to the assessee of being heard.

7. In the result, the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on the 26th day of August, 2019, in Chennai.

Sd/-

(एस. जयरामन)

(S. JAYARAMAN)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(धुव्वुरु आर.एल. रेड्डी)

(DUVVURU R.L. REDDY)

न्यायिक सदस्य /JUDICIAL MEMBER

चेन्नई/Chennai,

दिनांक/Dated: 26th August, 2019.

TLN

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF