

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH 'SMC-B', HYDERABAD**

**BEFORE SHRI A. MOHAN ALANKAMONY,  
ACCOUNTANT MEMBER**

ITA No. 207/Hyd/2018  
Assessment Year: 2003-04

Venkatapathi Raju vs. Dy. Commissioner of  
Dhantuluri, Hyderabad. Income-tax,  
Central Circle – 9,  
Hyderabad.  
PAN – ABPPD 8329R

Appellant

Respondent

Assessee by: Shri K.C. Devdas  
Revenue by: Shri R.S. Arvind Dakshan

Date of hearing: 24/07/2019  
Date of pronouncement: 19/09/2019

**ORDER**

This appeal is filed by the assessee aggrieved by the order of CIT(A) – 12, Hyderabad dated 15/11/2017 in appeal No. 2203/2011-12 passed u/s 144 rws 147 and 250(6) of the I.T. Act.

2. The assessee has raised six grounds and four additional grounds in his appeal. However, the cruxes of the issues are that, i) Id. CIT(A) has failed to note that the entire reassessment proceedings of a completed assessment u/s 143(3) of the Act within the period of 4 years was without jurisdiction and unreasonable and ii) Id. CIT(A) has erred in upholding the order of Id. AO, who has made addition of Rs. 2,66,000/- u/s 68 of the Act.

3. Brief facts of the case are that assessee is an individual filed his return of income for the relevant AY 2003-04 on 26/09/2003 admitting his total income of Rs. 4,98,644/-. Since the assessee was a trusted employee of Sri B. Ramalinga

Raju, Ex-Chairman of M/s.Satyam Computer Services Ltd, an accused in certain scams and pursuant to the events followed thereafter, wherein several irregularities were noticed by various investigating agencies, the case of the assessee was also reopened by issuance of notice u/s 148 of the Act.

4. During the course of scrutiny assessment proceedings, it was observed by the Id. AO that the assessee had deposited cash in his ICICI Bank account and BNP Paribas bank account aggregating to Rs. 12,39,788/-. On a query, the assessee in his reply dated 08/08/2011, had intimated that he was in judicial custody and, therefore, sought time for furnishing the details called for. However, since the assessment was getting time barred, Id. AO added the entire amount of Rs. 12,39,788/- in the hands of the assessee as unexplained cash credits u/s 68 of the Act.

5. On appeal, Id. CIT(A) after considering the explanation tendered by the assessee deleted certain additions. However, with respect to the addition made for Rs. 2,66,000/-, the Ld.CIT(A) confirmed the same, though the assessee has submitted confirmation letter from Mr. M. Satyanarayana Raju, from whom the assessee has obtained loan.

5.1 Before the CIT(A), the assessee has explained that he had obtained loan from Mr. M. Satyanarayana Raju, his childhood friend for Rs. 2,66,000/- and also furnished confirmation statement. However, the Id. CIT(A) agreed with the view of the Id. AO stated in the remand report that, the submission of the assessee is not verifiable as he has not provided PAN details, or the return of income filed by Mr. M. Satyanarayana Raju.

6. Aggrieved by the order of CIT(A), the assessee is in appeal before the Tribunal.

7. Before me, Id. AR submitted that, when the assessee had furnished the confirmation statement from the person who advanced loan to the assessee along with his address, it would have been appropriate on the part of the revenue to examine Mr. M. Satyanarayana Raju before coming to the conclusion that loan obtained by the assessee is bogus transaction. It was, therefore, pleaded that since the revenue authorities had not carried out their obligation in the appropriate manner, the addition made in the hands of the assessee for Rs. 2,66,000/- is not sustainable and the same may be deleted.

8. Ld. DR, on the other hand, vehemently opposed to the submission of the Id. AR and further relying on the remand report of the Ld.AO pleaded for confirming the order of Id. CIT(A).

9. I have heard the rival submissions and carefully perused the material on record. From the facts of the case, it is crystal clear that, the assessee had furnished before the Id. CIT(A) in the appellate proceedings, the confirmation statement from Mr. M. Satyanarayana Raju, with respect to the loan obtained from him. Moreover, it also appears from the remand report of the Ld.AO that, in the remand proceedings the Ld.AO had neither cross examined Mr. M. Satyanarayana Raju nor examined/verified the loan transaction though the address of Mr. M. Satyanarayana Raju was very much available before him. Further from the Order of the Ld.CIT(A) it is apparent that, he had sustained the addition of Rs. 2,66,000/- without making any further enquiry/examination, which is not

appropriate. Considering these facts and circumstances of the case, I am of the considered view that the addition made by the Id. AO, which was further confirmed by Id. CIT(A) for Rs. 2,66,000/- towards the loan received by the assessee from his childhood friend Mr. M. Satyanarayana Raju is erroneous. Therefore, I hereby direct the Id. AO to delete the addition of Rs. 2,66,000/- made in the hands of the assessee invoking the provisions of section 68 of the Act.

10. Since I have decided the appeal of the assessee on merits in favour of the assessee, I do not find it necessary to address the issue with respect to jurisdiction as it would be only academic.

11. In the result, appeal of the assessee is allowed.

Pronounced in the open court on 19<sup>th</sup> September, 2019.

Sd/-  
(A. MOHAN ALANKAMONY)  
ACCOUNTANT MEMBER

Hyderabad, dated 19<sup>th</sup> September, 2019.

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Copy forwarded to:

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2. *DCIT, Central Circle – 9, Hyderabad.*
3. *CIT(A) – 12, Hyderabad.*
4. *Pr. CIT – Central, Hyderabad*
5. *The DR, ITAT, Hyderabad*
6. *Guard File*