

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A" : HYDERABAD**

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

ITA No.	A.Y.	Appellant	Respondent
1698/Hyd/13	2001-02	S. Subhash, HYDERABAD [PAN: AMPPS0534A]	Dy. Commissioner of Income Tax, Central Circle-2, HYDERABAD
1699/Hyd/13	2002-03		
1700/Hyd/13	2003-04		
1701/Hyd/13	2004-05		
1702/Hyd/13	2005-06		
1703/Hyd/13	2006-07		
1704/Hyd/13	2007-08		
1705/Hyd/13	2008-09		

For Assessee : Shri S. Rama Rao, AR
For Revenue : Dr. Rajendra Kumar, DR

Date of Hearing : 25-06-2019
Date of Pronouncement : 24-09-2019

ORDER

PER BENCH :

All these assessee's appeals are for the AYs.2001-02, 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, 2007-08 & 2008-09 respectively, against the common and consolidated order of the CIT(A)-1, Hyderabad, dated 12.09.2013.

2. Brief facts of the case are that there was a search and seizure operation u/s.132 of the Income Tax Act [Act] in the group cases of M/s. Sree Ravi Teja Restaurants & Resorts Pvt. Ltd., on 27-09-2006, during the course of which, residential premises of the assessee was also covered and certain incriminating material was found and seized. Consequently,

notices u/s.153A of the Act, dt.10-05-2005 were issued to the assessee in response to which, the assessee filed his returns of income for the respective assessment years on 14/6/07, admitting the income as under:

A.Y	Income returned (Rs.)	Agri. Income returned (Rs.)
2001-02	1,18,500	2,00,000
2002-03	1,20,000	1,00,000
2003-04	1,83,000	1,00,000
2004-05	3,48,900	1,00,000
2005-06	3,48,900	1,00,000
2006-07	4,53,900	1,00,000
2007-08	4,54,400	2,50,000
2008-09	3,87,613	----

3. During the assessment proceedings u/s.153A of the Act, the Assessing Officer found that during the course of search and survey, evidence of undisclosed income of the assessee for various assessment years in the form of cash deposits into his bank accounts, unexplained cash credits, undisclosed investment in construction of house property etc. were found but the assessee has not admitted these incomes to tax either before the DDIT (Inv.) or in his returns of income filed in response to notices u/s.153A of the Act for the relevant assessment years. Therefore, during the assessment proceedings, show cause notices were issued to the assessee asking the assessee to file the cash flow statement, receipt and payments statements, Balance Sheet/statement of affairs and copies of bank accounts with documentary evidences

explaining the cash credits/other credits, exceeding Rs.20,000/- for the relevant A.Ys. However, the assessee did not file any information even to the notice u/s.142(1) of the Act stating that since the sources of his income were only salary and agriculture, he was unable to prepare the Balance Sheet, Cash Flow Statement etc. Taking the same into consideration, the Assessing Officer sought to complete the assessments *ex-parte* u/s.144 of the Act for all the assessment years i.e., AYs.2001-02 to 2007-08 and accordingly issued the notice to the assessee and also issued notices for levy of penalty u/s 271(1)(b) of the Act.

3.1. In response to the same and before the completion of assessment, the assessee represented by his Chartered Accountant, appeared on 17-10-2008 and furnished copies of certain bank accounts only, but did not file any other documents required by the Assessing Officer. The Assessing Officer observed that assessee has disclosed meagre income under the head salary and Agriculture for all the assessment years i.e., AYs.2001-02 to 2008-09. Thereafter, again the AR of the assessee appeared and furnished the cash flow statements as appearing in the SB A/cs of Bank of India and HSBC Bank. The Assessing Officer, however, was not convinced with the assessee's explanations, and held that the explanation given by the assessee is vague and that in the absence of detailed cash flow statement, explanation submitted by the assessee for various cash credits cannot be accepted. He held that the onus is always on the assessee to explain the cash credits appearing

in the books of assessee to the satisfaction of the Assessing Officer. He therefore proceeded to bring such cash deposits and cash credits to tax in the relevant A.Ys.

3.2. The Assessing Officer also observed that the assessee has been showing certain agricultural income in each of the Assessment Years in the returns of income filed by the HUF, but there was no documentary evidence of agricultural land in the name of the assessee. Therefore, he held that the agricultural income admitted in the status of HUF by the assessee for all the A.Ys has to be treated as 'income from other sources' in the hands of the assessee as individual and brought to tax accordingly.

3.3. Thereafter, he also proceeded to consider two cheques each for Rs.2 Lakhs drawn on Vijaya Bank, bearing A/c No.10430, West Marredpally found during the course of search. He observed that these cheques were signed by one Shri K. Krishna Murthy Naidu in favour of one Shri S. Sridhar. He observed that these two cheques were found in the residence of assessee and therefore, the amount mentioned therein belonged to the assessee. Accordingly, he treated the sum of Rs.4 Lakhs as unexplained investment u/s.69 of the Act for the A.Y. 2001-02 and brought it to tax.

3.4. During the assessment for the A.Y. 2003-04, the A.O. noticed that the assessee had purchased a plot of 539 sq. yards in the month of September, 2002 for Rs.6,50,000/- and when

the source for the consideration paid was asked, the assessee explained it to be out of his agricultural income. The A.O. did not accept the same and treated the same as an unexplained investment u/s 68 of the Act in the A.Y. 2003-04.

3.5. During the assessment for the A.Y. 2006-07, the A.O. found that the assessee has constructed a duplex house on the above mentioned plot by making a total investment of Rs.58 lakhs in the said house till 10.09.2006. Assessee had explained that the loans taken from banks were the source for the above investment. But, the AO found the claim to be false. He found that a sum of Rs.22 lakhs was not spent for construction, but was advanced to various other persons. Further, as per the valuation report, the house was valued at Rs.75.32 lakhs. Therefore, AO quantified the undisclosed investment in the house at Rs.17.32 lakhs (i.e. Rs.75.32 – 58 lakhs=17.32 lakhs) and worked out the total undisclosed investment in the house at Rs.39.32 lakhs (17.32 + 22 lakhs) and brought it to tax u/s 69 of the Act in the A.Y. 2006-07.

3.6. In all the relevant A.Ys, the Assessing Officer observed that the assessee has not furnished any specific explanation regarding various cash credits exceeding Rs.20,000/- into bank account. He therefore quantified such deposits at Rs.6,30,000/- for the A.Y. 2001-02, Rs.2,50,000/- for A.Y. 2003-04, Rs.11,53,300/- for A.Y. 2004-05, Rs.42,67,700/- for A.Y. 2005-06, Rs.50,48,990/- for A.Y. 2006-07, Rs.27,30,000/- for A.Y. 2007-08 and Rs.5,30,000/- for A.Y. 2008-09 and

treated them as unexplained cash credits and brought them to tax u/s.68 of the Act in the relevant A.Ys.

3.7. Aggrieved, assessee preferred appeals before the CIT(A), for all the A.Ys. The CIT(A), vide common order dated 12.9.2013 granted partial relief to the assessee and against the confirmation of some of the additions, assessee is in second appeal before us for all the A.Ys. Since common issues are there in all the A.Ys before us, we shall decide these appeals issue wise.

4. As regards the agricultural income being taxed as 'income from other sources, the Ld.Counsel for the assessee, while reiterating the submissions before the authorities below, submitted that assessee has never filed any return of income either individually or in the status of HUF prior to AY.2005-06. He submitted that there was partition of agricultural land held by his father in the year 1992 and since then the assessee was holding sufficient agricultural lands in his own right and has also derived agricultural income therefrom. He submitted that when there was no HUF during the relevant Assessment Years, it is not known as to how the Assessing Officer has recorded that the agricultural income has been offered by the HUF in its returns of income. He therefore prayed that the additions of agricultural income for all the A.Ys as 'income from other sources' be deleted.

4.1. As regards the addition of Rs.4 Lakhs is concerned, the Ld.Counsel for the assessee submitted that it pertains to the cheques found in his possession, but the cheques were neither signed by him nor were they issued in his name. He, therefore, submitted that the documents did not pertain to the assessee and hence the addition could not be made in the hands of assessee.

5. Ld.DR, however, supported the orders of authorities below.

6. Having regard to the rival contentions and material on record, we find that the Assessing Officer has recorded that there was no documentary evidence of agricultural land in the status of HUF and therefore, the income offered in the hands of HUF has to be treated as 'income of assessee from other sources'. On the other hand, the CIT(A), at para 7 of her order, observed that there was land in the name of joint family at Ramtek Village in the names of seven family members. Therefore, in the course of appellate proceedings, she forwarded it to the Assessing Officer for his comments. It was also observed that though sisters and brothers of the appellant are appearing in the said list, the name of the appellant is conspicuous by its absence and therefore, she negated the contention of assessee that he had share in the joint family property and the same is apportioned by an oral partition which has been reduced into writing thereafter and that the same has passed on to the assessee. The CIT(A) held that the

assessee cannot create a status of HUF for the purpose of taxation. We are, however, not in agreement with this contention of CIT(A). The moment a person is born into a family, HUF is created and if the land holdings were in the joint names of the family members, the assessee also being part of the HUF, would have a right in the income there from. We find that the Revenue is taking contrary stands. Assessing Officer has taken the stand that there is no evidence filed in proof of land in the name of the HUF and therefore, the income has to be treated as 'assessee's individual income under the head income from other sources' while CIT(A) held that the assessee is not part of the HUF and therefore, the income cannot be held to be belonging to the assessee. The existence of the joint family property is recorded by the CIT(A) and the assessee being the member of the joint family, is entitled to his share in the property. Once joint family property is established, then on partition, the assessee becomes the owner of such share in his individual capacity. In the paper book filed by the assessee, we find that there are copies of revenue records, wherein the name of the assessee is recorded as the owner of agricultural land in Ramtek. Therefore, it is to be accepted that the oral partition, subsequently reduced into writing has been given effect to. The assessee has filed the returns in the status of HUF admitting agricultural income in 2012, i.e. after the search. Thus, there cannot be any doubt that the assessee or the HUF possessed agricultural land. Therefore the income from agricultural land is available with the assessee to the extent of his share.

6.1. As held by the Hon'ble Supreme Court in the case of Gurucharan Singh vs. Kamla Singh and others, reported in 1977 AIR, 5, there can be oral partition of joint family property. Therefore, agricultural income offered by the assessee has to be accepted and cannot be treated as 'income from other sources'. Assessee gets relief accordingly in all the A.Ys before us.

7. In the result, disallowance of agricultural income and consequential additions for all the A.Ys in the hands of assessee before us, are deleted.

For the A.Y. 2002-03, in addition to the above addition, an addition of Rs.2,01,515/- as unexplained expenditure u/s.68 of the Act was made.

8. As regards the unexplained cash credits, we find that assessee had filed cash flow statement covering the period 2001-02 to 2008-09 and after taking into account the opening balance as on 1.4.2000 at Rs.6,26,500/- and income from commission, agricultural income, income from father, hand loans, income from dividend and other sources as well as cash withdrawal from the HSBC a/c and Bank of India, the assessee computed receipts for each year. Similarly, he has worked out payments under drawings, rent expenses, purchase of plot, payments to labour contractor, payment to chit funds, advance tax (income tax), cash deposited in both the banks HSBC and Bank of India, etc. By considering both the receipts and payments, closing cash balances have been arrived at for each of the assessment year by the assessee, before the CIT(A),

showing the opening balance as on 01-04-2000 at Rs.6,26,500/-. The CIT(A) required the assessee to file proof of existence of opening balance of Rs.6,26,500/- as on 1.4.2000 by filing necessary documents. In reply, assessee contended that in the earlier assessment years , business income and dividend income etc., have been assessed and therefore, credit should be given for the same as opening cash balance available as on 01-04-2000. The CIT(A), however, did not accept the said contention. She observed that the assessee has incurred marriage expenditure outside the books of account and that the same has been assessed as unaccounted income of the assessee and therefore, the question of existence of cash balance does not arise at all. She further observed that the business income and dividend income have been accounted through bank entries only and therefore held that the availability of cash has not been proved by the assessee.

8.1. Thereafter, the CIT(A) asked the assessee to furnish supporting evidence of cash returned from father for all the assessment years. Assessee expressed his inability to support the contention of cash returned by his father as well as hand loans taken from his father. Therefore, the CIT(A) excluded the said amounts from the cash flow statement filed by assessee. The CIT(A) also observed that the assessee has reflected drawings for the family at Rs.60,000/- each for two years and Rs.72,000/- each for four years and Rs.1 Lakh each for the last two years. After pointing out the nature of expenses and cost inflation over the years by the CIT(A), the assessee retracted

his earlier statements and furnished revised figures of householding drawings from AYs.2001-02 to 2007-08 at Rs.1,00,000/-, Rs.1,05,000/-, Rs.1,15,000/-, Rs.1,20,000/-, Rs.1,25,000/-, Rs.1,30,000/-, Rs.1,40,000/- and Rs.1,50,000/- respectively. After considering the income assessed under the head 'income from other sources' also as cash available with the assessee, the CIT(A) also accepted the quantum of expenditure claimed by the assessee. After deletions and additions, a revised cash flow statement was drawn according to which, the closing cash balance for A.Y. 2001-02 was arrived at Rs.2,15,485/-.

8.2. The Ld.Counsel for the assessee submitted that the assessee possessed agricultural land of 13 acres from 1992 after partition and therefore agricultural income therefrom was available with the assessee till 2000. Further, he submitted that there was cash withdrawal of Rs.7,77,985/- from HSBC bank as on 31.3.2000 and there was a peak cash credit of Rs.4,94,665- in the bank account as on 27.3.2000. He therefore, submitted that the CIT(A) should have considered these facts and accepted the opening cash balance as on 1.4.201. He further drew our attention to the revised cash flow statement drawn by the CIT(A), wherein the CIT(A) has taken Rs.5 lakhs as payment to labour contractor during the F.Y. 2001-02, which according to him is not correct as the construction of the house commenced only in A.Y. 2003. He submitted that if these two figures are considered properly,

then there would not be any deficit for the A.Y. 2001-02 or for the subsequent A.Ys.

8.3. We find that the assessee has declared agricultural income of Rs.2,00,000/- for the A.Y. 2001-02. Going by the same, the agricultural income for the earlier years from 1992 can be estimated at Rs.50,000/ per year i.e. Rs.4,50,000/-. The marriage expenses incurred outside the books of accounts have already been brought to tax as unaccounted income of the assessee. Therefore, the agricultural income from the earlier years can be accepted as the source for the opening cash balance claimed by the assessee. The peak cash credit of Rs.4,94,665/- also should be considered as cash available with the assessee. Further, as regards the payment to labour contractor also, we are of the opinion that it should be taken into consideration in A.Y. 2004-05 as the construction of the house commenced in August, 2003. Therefore, AO is directed to redraw the cash flow statement for all the AYs by accepting the opening cash balance as on 1.4.2000 at Rs. 6,26,500/- and considering the labour contractor payment of Rs.5,00,000/ in the A.Y. 2004-05 and if there is any negative closing cash balance for any of the A.Ys, only such negative cash balance shall be considered as unexplained expenditure of the assessee for such A.Y. and can be brought to tax. The grounds against such additions for all the AYs are accordingly partly allowed for statistical purposes

9. The other addition in the A.Y. 2001-02 is of Rs.4 lakhs on account of two crossed cheques found in the possession of the assessee. The Ld.Counsel for the assessee pointed out that the cheques were dated 30.9.2003 and 30.10.2003 and were issued in favour of Shri S. Sridhar. He submitted that the A.O. presumed that the cheques represented refund of earlier advance or advance earlier given which was not accounted for. He submitted that the cheques were not in favour of the assessee but were in favour of assessee's brother Shri S.Sridhar and there is no imputation that assessee had advanced any amount to Shri K.Krishnamurthy Naidu who has issued the cheques. The assessee also submitted a copy of the complaint filed by assessee's brother Shri S.Sridhar complaining that the cheques issued by Shri K.Krishnamurthy Naidu were not honoured. Therefore he submitted that the addition in his hands is not sustainable.

10. After hearing the Ld.Counsel for assessee and after perusal of material on record, we find the contentions of assessee to be correct, because both the cheques were found in possession of the assessee, but the cheques were neither issued in his name nor were issued by him. In fact, they were part of litigation between assessee's brother and issuer of cheques. Therefore, we delete the addition of Rs.4 lakhs made by AO and confirmed by CIT(A) for A.Y. 2001-02. Thus assessee's appeal for A.Y. 2001-02 is partly allowed.

11. As regards A.Y. 2002-03, the addition is of agricultural income, which is treated as 'income from other sources' and the cash deficit on account of revised Cash Flow Statement prepared by the CIT, D.R.

11.1. We have dealt with this issue in detail in the A.Y. 2001-02 and respectfully following the same, the additions made during the relevant A.Y. are deleted subject to the directions given above.

Thus, the appeal for A.Y. 2002-03 is partly allowed for statistical purposes.

12. In the A.Y. 2003-04, there is an addition of agricultural income and also addition on account of cash deficit. The argument of the assessee is that if the opening balance as on 1.4.2000 is taken into consideration and the expenditure being payment to labour which was considered in A.Y. 2001-02 is also deleted, then there would not be any cash deficit for the relevant A.Y. otherwise, it is submitted that if drawings totalling to Rs.72,000/- is also considered, there would be no addition. We find that the Cash Flow Statement of the assessee has shown drawings of Rs.72,000/- in the A.Y. 2003-04. The CIT(A) has considered the drawings of Rs.1,15,000/- which are the figures submitted by the assessee as revised house hold withdrawals. The AO has already been directed to re-draw Cash Flow Statement in the order for the A.Y. 2001-02 and consequently the same has to be followed for the relevant A.Y. also.

Therefore, the appeal of the assessee for A.Y. 2003-04 is partly allowed for statistical purposes.

13. For the A.Y. 2004-05 also, the only additions made are of agricultural income and negative cash balances. For the detailed reasons given in A.Y. 2001-02, appeal for A.Y. 2004-05 is treated as partly allowed for statistical purposes.

14. For A.Y. 2005-06, in addition to agricultural income and cash deficit, there are certain other additions such as unexplained deposits into bank account of Rs.3 lakhs vide cheque no.121611 dated 7.6.2004, of Rs.3 lakhs vide cheque no.121612 dated 11.6.2004, Rs.3 lakhs vide cheque no.981491 dt. 6.10.2004, Rs.3 lakhs vide cheque no.257720 dated 22.1.2005, Rs.3 lakhs vide cheque no.882830 dated 1.2.2005 and Rs.2 lakhs vide cheque no.25801 dated 29.3.2005.

14.1. As far as the additions of agricultural income and cash deposits are concerned, we have already held partly in favour of assessee on this issue for A.Y. 2001-02 and, therefore, respectfully following the same, the grounds of appeal of the assessee against these additions are partly allowed.

14.2. As regards unexplained cash deposits into bank accounts, Ld.Counsel for assessee submitted that amount of Rs.3 lakhs vide cheque dated 7.6.2004 was received from GPR Chits and was deposited into HSBC account. He submitted that this is pursuant to the order of A.P. State Consumer Disputes

Redressal Commission and deposit slips were also available. Therefore, the addition has to be deleted.

14.3. We find that the CIT(A) has considered the issue but has held that the assessee has not filed confirmation letters from Chit Fund Companies, GPR Chits, Laxmi Sridevi Chit Fund etc. and therefore has not discharged the onus to support his explanation. Before us, assessee is referring to payment by cheques. In view of the same, we deem it fit and proper to direct the AO to consider if the deposits were by the cheques whose numbers are mentioned by assessee and if they are found to be by way of cheques, then no addition as unexplained deposits into bank account shall be made. The assessee gets relief accordingly and the grounds of appeal on account of unexplained deposits into bank account by way of cheques are treated as allowed for statistical purposes.

14.4. Therefore, the appeal of the assessee for A.Y. 2005-06 is partly allowed for statistical purposes.

15. For the A.Y. 2006-07, in addition to agricultural income and cash deficit brought to tax, there are other additions of Rs.15 lakhs as unexplained income, Rs. 7 lakhs as unsecured loans and Rs.12 lakhs as unexplained investment in house property. The first two grounds on addition of agricultural income and cash deficit are covered by the decision in the earlier AYs and therefore these grounds are treated as partly allowed for statistical purposes.

15.1. In so far as addition of Rs.15 lakhs is concerned, the assessee has stated that these are amounts involved in the cheques which have been bounced totaling to Rs.15 lakhs and AO has erroneously taken as fresh credit each time.

15.2. We find that at para 8.6.1 of her order CIT(A) has discussed the same in detail and for the sake of ready reference the said paragraph is reproduced hereunder.

“As regards the receipts by cheques it is found that sum of the cheques have been bounced totalling to Rs.15 lakhs repeatedly but the AO has taken the same as fresh credit each time. It requires verification by the AO and he should reach to the correct amount for the purpose of quantifying the loan amount. It is argued that the sum of Rs.14,78,000/- representing cheque no. 25808 dated 15-4-2005 for Rs,1,76,000/-, cheque No.748161 dated 5-1-06 for Rs.3,02,000/-, cheque No.25802 dated 8-4-2005 for Rs.7,00,000/-, cheque No. 530412 dated 2-9-2005 for Rs.1,00,000/-, cheque no.530420 dated 24-9-2005 for Rs.2,00,000/- received from Muktheswari Bosco and the same have been refunded by cheques; therefore it is not correct on the part of the Revenue to treat these amounts as unexplained credits in the hands of appellant. I have carefully considered the said contention and found no merit in the argument. The appellant failed to identify and establish the creditworthiness of Mukteshwari Kaushik Bosco so as to lend so much amount to the appellant periodically. The appellant could not confirm the activities of Muktheswarl Bosco and sources of income of such person. Unless and until the appellant proves the credentials of

the lender the credits appearing in the books of the appellant cannot be accepted as genuine loans. Accordingly, a sum of Rs.14,78,000/- is held as unexplained income in the hands of the assessee.”

15.3. Even before us, the assessee has not been able to establish the credit worthiness of Mukteshwari Kaushik Bosco and, therefore, we do not see any reason to interfere with the orders of the CIT(A). However, since the assessee has stated that these amounts were returned by assessee, the AO is directed to verify the same and if it is found that cheques were returned, then no addition is to be made of the said amount. Hence the ground is treated as allowed for statistical purposes.

16. As regards addition of Rs.7 lakhs on the ground that assessee failed to produce confirmation letter from Shri Y.Chandrashekhar Rao, Ld.Counsel for the assessee has submitted the copy of confirmation letter from Shri Y.Chandrashekhar Rao in which he confirms that he has paid Rs.7 lakhs vide cheque no. 123246 dated 3.8.05 drawn on Axis Bank to Shri S Subhash and he has also given his PAN number. In view of the same, we deem it fit and proper to remand the issue to the file of AO for verification of the said contention of assessee and if it is found to be correct, then we hold that no addition is to be made.

17. Next addition is regarding unexplained investments in house property. Assessee submitted that he had constructed a

house in plot no.3, Dream Villa, Arunodaya Society, Shaikpet, Hyderabad during the period 2003 and 2007. The valuation of the said property was referred to DVO who determined the value of property at Rs.75,31,536/- as against the valuation report of registered valuer who had determined the value at Rs.36 lakhs. The AO treated the difference as unexplained investment in the property. The AO did not accept assessee's contention of receipt of Rs.10 lakhs from Smt. Radha Rao and also did not consider the payments of Rs.8 lakhs to Shri Srinivasa Reddy and Rs.4 lakhs to Shri G.Madan Mohan as spent for construction. Therefore, he excluded Rs.22 lakhs from the explained sources and made addition of Rs.39.32 lakhs which was confirmed by the CIT(A). The Ld.Counsel for the assessee submitted that valuation cell did not allow any deduction towards self-approval or towards rate difference. He sought deduction of 15% towards rate difference and 10% towards self-approval and if the same is taken into consideration the total investment in the property would come to around Rs.57,61,626/- which is less than the expenditure incurred by the assessee. Therefore, he sought deletion of addition of Rs.17.32 lakhs.

17.1. The Ld.Counsel for assessee submitted that the sum received from Smt Radha Rao was through cheques and letter of confirmation was also filed wherein she mentioned that she had gifted this from the amount received by her from her brother. He also drew our attention to the gift deed and the copy of her bank account with Syndicate bank reflecting the said credits. Further, he also tried to explain the payments

made to Sri Srinivasa Reddy and Sri G.Madan Mohan and purpose of such payments. However we find that no documents in support of such contentions are filed before us. Taking the contentions of the assessee into consideration, we hold that the assessee should have been given the deduction towards self-approval and the rate difference. Further the gift received from Smt. Radha Rao is also proved by evidence submitted by assessee. Therefore the same has to be accepted as the source available with the assessee for making investment. However, with regard to Rs.12 lakhs paid to Shri Srinivasa Reddy and Shri Madan Mohan, in the absence of any evidence in support of the same, we confirm the additions made by the CIT(A). Thus the assessee gets partial relief on this issue. Assessee's appeal for A.Y. 2006-07 is partly allowed.

18. As regards the A.Y. 2007-08, in addition to the addition made on account of agricultural income, there is an addition of Rs.2 lakhs which is allegedly received from Smt. Mukteshwari Bosco, Hyderabad through cheque nos. 469601 dated 29.8.2006 of Rs.1 lakh and another cheque no.469605 dated 30.9.2006 for Rs.1 lakh. Though the assessee has stated that letter of confirmation is filed, we find that identity and credit worthiness of such person has not been proved by the assessee and therefore the CIT(A) had confirmed the addition. Assessee has not been able to establish the credit worthiness of this person even before us. Therefore the addition of Rs.2 lakhs is confirmed.

Assessee's appeal for AY 2007-08 is accordingly partly allowed.

19. As regards appeal for A.Y. 2008-09, we find that there is addition on account of unexplained cash balance and also addition of Rs.5 lakhs u/s 68 of the Income Tax Act, 1961. The issue of negative cash balance has been set aside to file of A.O. for re-drawal of the cash flow statement and, therefore, this issue is also set aside to the file of the AO and this ground is treated as partly allowed for statistical purposes.

20. As regards addition u/s 68 of the Act is concerned, the Ld.Counsel for the assessee submitted that a sum of Rs.5 lakhs was received by assessee from his wife Smt. Mohana Madhuri. He submitted additional evidence before us to prove the source and credit worthiness of the same in the hands of Smt. Mohana Madhuri. The return of income of Smt.Mohana Madhuri and her bank statement for the relevant period are filed before us. For admission of the said additional evidence, the Ld.Counsel for the assessee submitted that since they go to the root of the matter and are part of the record before the authorities and sum of Rs.5 lakhs is allegedly given to the assessee through banking channels it may be admitted and considered. We deem it fit and proper to admit the same and remand the same to the file of AO for verification. The AO shall consider the issue on merits regarding the evidence filed before us as additional evidence. In the result, appeal for AY 2008-09 is also partly allowed for statistical purposes.

21. In the result assessee's appeals for A.Y. 2001-02 to 2008-09 are treated as partly allowed for statistical purposes.

Order pronounced in the open court on 24/09/2019.

Sd/-

**(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER**

Sd/-

**(P. MADHAVI DEVI)
JUDICIAL MEMBER**

Dated : 24/09/2019

*TNMM/*GMV

Copy to :

1. Shri S.Subhash, H.No.8-1-405/A/3, Dream Valley, Near O.U. Colony, Shaikpet, Hyderabad.
2. Deputy Commissioner of Income Tax, Central Circle-2, Hyderabad.
3. CIT(Appeals)-1, Hyderabad.
4. CIT(Central)-Hyderabad.
5. D.R. ITAT, Hyderabad.
6. Guard File.

S.No.	Details	Date
1	Draft dictated on	25-06-19 18/09/19
2	Draft placed before author	23/9/19 24/9/19
3	Draft proposed & placed before the Second Member	
4	Draft discussed/approved by Second Member	
5	Approved Draft comes to the Sr. PS/PS	
6	Kept for pronouncement Order uploaded on :	24/9/19
7	File sent to Bench Clerk	
8	Date on which the file goes to Head Clerk	
9	Date on which file goes to A.R.	
10	Date of Dispatch of order	