

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD 'SMC' BENCH : Hyderabad**

**Before Smt. P. Madhavi Devi, Judicial Member**

**ITA No. 2246 & 2247/Hyd./2018  
Assessment Years: 2004-05 & 2005-06**

Smt. Harnitha Reddy Makireddy  
C/o P Murali & Co.  
Chartered Accountants  
6-3-655/2/3  
Somajiguda  
Hyderabad 500 082

vs. ITO, Ward 6(5)  
Hyderabad /  
DCIT, C.C.2  
Hyderabad.

PAN: AATPM6617N

**(Appellant)**

**(Respondent)**

**For Assessee:** Sh. P. Murali Mohana Rao, A.R.

**For Revenue:** Smt. Matta Padma, D.R.

**Date of Hearing** : 31/10/19

**Date of Pronouncement** : 15/11 /19

**ORDER**

Both are assessee's appeals for A.Y. 2004-05 and 2005-06 respectively against the order of the CIT(A)-6, Hyderabad dated 26.09.2018.

**2.** Brief facts of the case are that the assessee, an individual, deriving income from house property and other sources, filed her return of income for both the AYs. Initially the assessments were completed u/s 143(3) r.w.s. 153C of the Income Tax Act, 1961 (the Act). Subsequently the assessments were reopened u/s 147 of the Act.

**2.1.** During the assessment proceedings u/s 147 of the Act, the AO observed that there was an addition made towards chit dividend of Rs.2,10,100/- and another addition made towards interest income from M/s Palace Heights P Ltd of Rs.84,000/-. The CIT(A) had allowed assessee's appeal against addition of interest income, but confirmed the addition made towards chit dividend of Rs.2,10,000/-. On appeal, the ITAT had remitted the issue to the file of AO to verify the transaction of chit dividend issue. The assessee had also stated

before the ITAT that from the chit subscribed by assessee, she had incurred loss, and, therefore, it cannot be brought to tax. The AO noticed that assessee had received dividend from M/s Margadarsi Chit Fund P. Ltd. Hyderabad of Rs.1,56,550/-. The AO observed that the dividend income is to be taxed for period of its accrual and is to be treated as 'income from other sources', accordingly AO brought the same to tax.

**2.2.** Aggrieved, the assessee preferred an appeal before the CIT(A), who confirmed the order of the AO. The CIT(A) observed that the assessee has claimed the loss on account of the chit in the computation of income. However, he brought out the fact that the assessee could not have claimed the loss from chit because the return was filed on 28.4.2006 where as the assessee came to know about the net income or loss from the chit only on 30.04.2006. Therefore, he held that the assessee's contention of having claimed the loss in the return of income and which has not been considered by the AO, is incorrect. Further the CIT(A) also considered the decision of Hon'ble Supreme Court in the case of Bilahari Investments and held that the entire amount of chit dividend received by the assessee is taxable without any adjustment of chit loss incurred by assessee in the subsequent A.Y. 2005-06. Thus, he confirmed the order of AO and the assessee is in second appeal before us by raising the following grounds of appeal.

**For A.Y. 2004-05**

*"1. The Ld.CIT(A)-6, Hyd, (hereinafter referred to as 'Ld.CIT(A)') has erred both in law and facts in passing the order dismissing the appeal vide order no.10296/2017-18/B3/CIT(A)-6 of the appellant against the order u/s 143(3) r.w.s 147 r.w.s 254 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'). Dt. 26.09.2018 passed by the ITO, Ward-6(5), Hyderabad (hereinafter referred to as 'A.O').*

*2. The Ld.CIT(A) erred in dismissing the appeal of the appellant by mis-interpretation of the directions of Hon. ITAT.*

*3. The Ld.CIT(A) ought to have appreciated the fact that the Hon. ITAT in their order directed the AO to delete the addition of Rs.2,10,100 towards chit*

*dividend after verification of the transactions only and there are no directions to verify the merits and legality of the issue.*

4. *The Ld.CIT(A) ought to have appreciated the fact that the AO erred in passing the consequential order, without following the directions of the Hon. ITAT.*

5. *The Ld. CIT(A) ) erred in upholding the addition of Rs. 1,56,550/- towards chit dividend made by the AO without appreciating the fact that the AO has made such addition without jurisdiction.*

6. *The Ld.CIT(A) ought to have appreciated the fact that the AO erred in making addition towards chit dividend by re-examining the merits and legal implications of the case, which were already examined and adjudicated by the Hon. ITAT in favour of the appellant and the Ld.CIT(A) further erred in confirming the order of the AO.*

7. *The Ld. CIT(A) ) erred in dismissing the appeal of the appellant on the issue of addition towards chit dividend merely on the suspicion that the appellant had not declared the same in her return of income.*

8. *The Ld.CIT(A) ought to have appreciated the fact that the appellant had incurred loss on chit fund transactions even if it is presumed that she had not declared loss in her return of income.*

9. *The Ld.CIT(A) ought to have appreciated the fact that the Hon'ble ITAT has agreed the contention of the appellant that the appellant has incurred loss on chit fund transaction and held that there is no default on the part of the appellant.*

10. *The Ld. CIT(A) ought to have appreciated the fact that the AO erred in passing reopened assessment order by invoking wrong section i.e. u/ s 143(3) r.w.s. 148 of the Act to give effect to the order of the Hon'ble ITAT which is bad in law.*

11. *The Ld. CIT (A) erred in dismissing the appeal of the appellant without considering the facts of the case and without appreciating the submissions and the information furnished by the appellant.*

12. Without prejudice to the ground nos. 2 to 11 above, the Ld.CIT(A) ought to have appreciated the fact that determination of income or loss from the contribution to chit scheme has to be arrived only at the time of payment of last instalment or at the time of closure of the scheme, whichever is earlier, to arrive at the true income/loss from contribution to chit, which ground was already considered by the l Hon'ble ITAT and held in favour of the appellant.

13. Without prejudice to ground nos. 2 to 11 above, the Ld.CIT (A) ought to have appreciated the fact that when appellant had actually incurred overall loss of Rs. 8,974/- towards contribution to chit considering only the dividend for the purpose of taxation is not justified and the same was already considered by Hon'ble ITAT and held in favour of the appellant.

14. The appellant may add or alter or amend or modify or substitute or delete and or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal.”

**For A.Y. 2005-06**

1. The Ld.CIT(A) erred both on facts and in law in upholding the addition made by AO in the order passed u/s 143(3) rws 148 of IT Act, 1961 to the extent it is prejudicial to the interest of the appellant.

2. The Ld.CIT(A) has grossly erred in upholding the addition made by AO in respect of dividend received by the appellant on the chit fund subscription.

3. The Ld.CIT(A) ought to have appreciated the fact that the dividend from chit should not be considered as a part of income of the assessee since it is actually resulting in loss of Rs.8,974/-.”

**3.** Ld.Counsel for the assessee submitted that the chit started in July,2002 and got concluded on 30.04.2006. He submitted that during the relevant A.Y., i.e. 2005-06 the assessee had received dividend of Rs.1,56,550/- where as the net income from the chit for the whole of the chit period is a loss of Rs.8,974/-. He submitted that the Hon'ble Supreme Court in the case of CIT vs. M/s Bilahari Investment (P) Ltd. (Civil Appeal no.1625/2018 judgement dated 27/02/2008) has held that the contract

completion method has to be applied to such transactions such as chit fund business, and it was also held that the chit scheme is one integrated scheme spread over a period of time, sometimes exceeding 12 months and that the computation of tax effect in such cases is revenue neutral, particularly, when the scheme is read as one integrated scheme spread over a period of time, thus, the Hon'ble Supreme Court has confirmed the order of the Hon'ble High Court that the completed contract method of accounting is to be adopted for receipt of chit fund dividend.

**4.** Having regard to rival contentions and material placed on record, I find that the chit scheme has got concluded on 30.04.2006 relevant to AY 2006-07 and during the AY 2005-06, the CIT(A) has considered that the chit has ended in April, 2006 and the total amount of this chit was Rs.25 lakhs and it has resulted into loss, and so, no income has been earned in this case by the assessee, and the AO has also passed a consequential order dated 22.11.2018, deleting the addition towards the chit dividend. Therefore, for both the AYs 2004-05 and 2005-06 also, the chit dividend income cannot be brought to tax as, ultimately, on the completion of chit period, the net result is a loss.

**4.1.** Thus, the assessee's appeal for AY 2004-05 is accordingly allowed.

**4.2.** Since the CIT(A) has given relief and AO has accepted the relief given by the CIT(A) by passing a consequential order, the appeal for AY 2005-06 has become infructuous and is accordingly dismissed.

**5.** In the result, assessee's appeal for the A.Y. 2004-05 stands allowed and appeal for A.Y. 2005-06 is dismissed.

Order pronounced in Open Court on 15<sup>th</sup> November, 2019.

Sd/-

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

Dated: 15<sup>th</sup> November, 2019.

\*GMV

Copy forwarded to:

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2. ITO, Ward 6(5), Hyderabad/DCIT, C.C. 2, Hyderabad.
3. Pr.CIT-6, Hyderabad
4. CIT(A)-6, Hyd.
5. D.R. ITAT Hyderabad
6. Guard File

// C o p y //

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