

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “SMC”, HYDERABAD**

BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER

I.T.A. No. 797/HYD/2018

Assessment Year: 2012-13

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| Jampala Ramesh Reddy, PRODDATUR [PAN: AJRPR1697J] | Vs | Income Tax Officer, Ward-1, PRODDATUR |
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(Appellant)

(Respondent)

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| For Assessee | : | Shri A.C.Gangaiah, AR |
| For Revenue | : | Smt. E.N.Hangal, DR |

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| Date of Hearing | : | 14-11-2019 |
| Date of Pronouncement | : | 22-11-2019 |

ORDER

This appeal filed by the assessee for the AY.2012-13 is directed against the order of the Commissioner of Income Tax (Appeals)–Kurnool, dated 19-02-2018.

2. Brief facts of the case are that, assessee, an individual, filed his return of income for the AY.2012-13 electronically on 31-03-2013, disclosing a total income of Rs.12,67,650/- derived from interest, remuneration and commissions. The said return was selected for scrutiny by CASS for the reason '*Large Increase of Unsecured Loans*'. Therefore, notice u/s.143(2) of the Income Tax Act [Act] was issued and served on the assessee. However, none appeared for the assessee and therefore, assessment was completed u/s.144 of the Act, bringing the un-secured loans of Rs.12 Lakhs to tax.

3. Aggrieved, the assessee preferred an appeal before the CIT(A), stating that the Assessing Officer (AO) had made the addition of Rs.12 Lakhs, though he was satisfied in respect of three out of four creditors. It was submitted that there is an increase of credit in support of assessee's HUF account from Rs.26,09,689/- to Rs.40,22,399/- in the concerned previous year and the relevant information was picked up from the returns filed for assessee's-HUF. It was submitted that the AO was satisfied with the financial position of the HUF with regard to rent money and there is an entry of Sundry Debtors of Rs.12 Lakhs in the Balance Sheet of HUF. The AO felt that the money of assessee is routed through assessee's-HUF and the amount of Rs.12 Lakhs is concealed income. It was further submitted that the AO had issued notice to the assessee's-HUF to explain the deposits made into bank account of the HUF to the extent of Rs.9,85,000/- and the assessee had submitted reply and thereafter no action was taken and therefore, the addition cannot be made in the hands of assessee. The Ld.CIT(A), however, held that the assessee has not discharged his burden of proving that the transaction between the assessee and his HUF is genuine and that the creditworthiness of lender-HUF is proved. Therefore, he granted partial relief and confirmed the addition to the extent of Rs.9,85,000/- only. Aggrieved, the assessee is in second appeal before the Tribunal, by raising the following Ground(s):

"1. The addition Rs.9,85,000/- confirmed by the CIT(A) even after proving, genuine transaction and identity of creditor is to be quashed".

4. Ld.Counsel for the assessee reiterated the submissions made before the authorities that the assessee-individual had borrowed a sum of Rs.12 Lakhs from his HUF and it is also transferred through banking channels. He has filed before us the copies of the notice issued by the AO to the assessee's-HUF dt.13-10-2014, requiring the assessee to explain the deposit of Rs.9,85,000/- on 02-04-2011. He has also referred to the reply of the assessee dt.22-11-2014 along with the copies of the Cash Book and the Ledger account, explaining the sources for the deposit. He submitted that thereafter, no action was taken in the case of HUF, therefore, it is to be deemed that the AO has accepted the explanation of the assessee-HUF regarding the sources of the deposit. He submitted that the AO having accepted the sources of the deposits in the hands of the HUF, the creditworthiness of the HUF is deemed to have been accepted. It is therefore submitted that the same amount cannot be treated as 'un-explained cash' in the hands of the assessee-individual. He therefore prayed that the addition of Rs.9,85,000/- confirmed by the CIT(A) be deleted.

5. Ld.DR, on the other hand, supported the orders of the authorities below and has filed the report of the AO i.e., ITO Ward-1, Proddatur, dt.16-07-2019, stating that the assessee has been filing his returns of income in HUF capacity w.e.f. AY.2011-12 to AY.2018-19 and only for the AY.2012-13, the return of income in HUF status was filed on 01-04-2013 belatedly and the same was processed by the CPC, Bengaluru on 14-05-2013 and that no scrutiny assessment was done in that case for the AY.2012-13 in the HUF status.

6. Having regard to the rival contentions and the material on record, I find that the HUF has filed its return of income for the AY.2012-13 and the CPC, Bengaluru has processed the return also on 14-05-2013. It is not known under which provisions or proceedings, the AO has issued notice dt.13-10-2014, requiring the assessee to explain the sources for the deposits in cash to the assessee in HUF status. Assessee has also filed reply and the acknowledgment of the ITO, Ward-I, Proddatur is also available on the said copy. I find that after that date, no action has been taken by the ITO, Proddatur and therefore it is to be deemed that the AO/ITO was satisfied with the explanation given by the assessee-HUF. Once the AO of the assessee-HUF has accepted the source for the deposits made into its accounts, the creditworthiness of the HUF has been accepted by the ITO and therefore, the same cannot be doubted in the hands of the individual. In view of the same, I am inclined to delete the addition of Rs.9,85,000/-, confirmed by the Ld.CIT(A). The Ground raised by assessee in this regard is allowed.

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

Order pronounced in the open court on 22nd November, 2019

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Hyderabad, Dated: 22-11-2019

TNMM

Copy to :

- 1. Shri Jampala Ramesh Reddy, 49 High, APHB Colony, Korapadu Road, Proddatur.*
- 2. Income Tax Officer, Ward-1, Proddatur.*
- 3. CIT(Appeals)-Kurnool.*
- 4. Pr.CIT-Kurnool.*
- 5. D.R. ITAT, Hyderabad.*
- 6. Guard File.*