

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

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER**

ITA Nos. 1653, 1654 & 1655/Hyd/2017 and  
1671 & 1672/Hyd/2017  
Assessment Years: 2003-04, 2004-05, 2005-06, 2007-08 &  
2008-09

Inderjeet Singh,  
Hyderabad.

vs. Asst. Commissioner of  
Income-tax, Circle – 4(1),  
Hyderabad.

PAN – AGQPS 2107N

Appellant

Respondent

Assessee by: Shri P. Murali Mohana Rao  
Revenue by: Smt. Esther N Hanghal

Date of hearing: 17/12/2019  
Date of pronouncement: 17/12/2019

**ORDER**

All of these appeals are filed by the assessee for the AYs 2003-04 to 2005-06 & 2007-08 & 2008-09.

2. Brief facts of the case are that the assessee is engaged in the business of auto finance and brokerage. A survey operation u/s 133A was initiated on 29/11/2007 and the same was converted into search. In response to the notice issued u/s 153A, the assessee filed his returns of income from the AYs 2002-03 to 2008-09 on 30/07/2009. The assessments were completed under section 153A rws 143(3) of the IT Act by making additions towards auto finance, unexplained cash and disallowance of expenses on commission income. Further, the AO also observed that there was the income on auto finance, which included undisclosed interest income @ 24% on annual turnover of auto finance and fresh unexplained additional advances were also made during the year which

were to be brought to tax. The AO disallowed the expenditure on commission income based on the incriminating material found during the course of survey and search operation and accordingly, the assessment proceedings were completed.

3. Aggrieved by the order of AO, the assessee preferred appeals before the CIT(A) against disallowance of expenditure on commission income. The CIT(A) confirmed the addition and the assessee filed further appeals to ITAT.

4. The ITAT vide its order dated 28/07/2011, estimated the net interest income at 1% per month instead of 2% per month considered by the AO on cumulative advances and accordingly computed month-wise interest by considering the advances given and EMI received as repayment. The Tribunal further observed that the income earned which is already subjected to tax is to be considered for reinvestment and accordingly due deduction should be allowed. The ITAT also directed the AO to consider 30% of the advances as well as interest as bad debts and directed the AO to redetermine the taxable income from auto finance.

4.1 Accordingly, in the consequential proceedings giving effect to ITAT order, AO reduced bad debts @ 30% of unexplained advances, but did not allow 30% of the interest income as bad debts and also did not allow the telescoping of the disallowances as sources for making advances in the next AYs.

5. Aggrieved, the assessee preferred appeals before the CIT(A), who confirmed the order of the AO and the assessee is in second appeal before the ITAT.

6. The Id. counsel for the assessee submitted that the AO and the CIT(A) have failed to follow the directions of ITAT and, therefore, AO should be directed to allow 30% of bad debts both from gross advances as well as interest income in accordance with the directions of ITAT. He also prayed that the AO should be directed to telescope the disallowed expenditure on commission income as cash available with the assessee for giving advances for the subsequent financial years.

7. The Id. DR, however, supported the orders of authorities below.

8. After hearing both the parties and having considered the material on record, I find that the Tribunal vide para 15 & 16 of its order has very clearly directed as under:

*15. We have considered the net interest income at 1% per month instead of 2% per month adopted by the Assessing Officer since the auto finance is a very risky venture and the assessee has to deal with lower strata of society and the volume of bad debts is very high which was not considered by the Assessing Officer. Similarly, the additional unexplained advance has to be computed after giving due weightage to the income earned. It means that the income earned is also to be reinvested in a form of fresh advances and it is to be given due weightage while arriving the unexplained fresh advance. Thus, we have deducted the income offered to tax in each year from the cumulative advance of that year while arriving at fresh advance in each year. We have observed that the assessing officer has not given deduction towards interest income earned while determining the fresh advance. The income earned is already subjected to tax and it is reinvested and due deduction is to be given while ascertaining the fresh advance. Accordingly, we have deducted the interest offered to tax while determining the fresh advance. The assessing officer is directed to consider the same while determining the fresh advance. We have also given deduction at 30% towards bad debts while determining the unexplained fresh advance and same to be given on*

interest income. Thus, the assessing officer is required to determine the taxable income from Auto finance as follows:

Financial year	Assessment Year	Undisclosed income* Rs.	Fresh Unexplained additional advance made during the year	Unaccounted income during the year*
2002-03	2003-04	30580	616959	647539
2003-04	2004-05	216524	1010283	1226807
2004-05	2005-06	496427	459461	955888
2005-06	2006-07	782304	3945992	4728296
2006-07	2007-08	1063007	Ignored	1063007
2007-08	2008-09	574797	Ignored	574797

\* Bad debts on interest income to be excluded by assessing officer

16. With these observations, we set aside the entire issue to the file of assessing officer for limited purpose of reframing the assessable income in each assessment year after considering the disallowance of expenses on commission income if any as discussed in the following para.”

8.1 The assessee has filed a chart showing advances given, EMI received, cumulative advances, net interest at 1% and also bad debts to be given at 30% as directed by the ITAT and the same is reproduced hereunder for ready reference:

	Month	Advance given	EMI received	Cumulative adv.	Net Int. (@1%)	Total interest for the year	Unexplained advance for the year	Closing bal. of cumulative adv. For the year	Net addition made
AY 03 - 04	Jun'02	9000	0	9000	90				
	Jul'02	52000	1170	59830	598				
	Aug'02	16000	5520	70310	703				
	Sep'02	94000	7340	156970	1570				
	Oct'02	51000	16110	191860	1919				
	Nov'02	75000	23780	243080	2431				
	Dec'02	142000	31580	353500	3535				
	Jan'03	126000	47420	432080	4321				
	Feb'03	258500	61120	629460	6295				
	Mar'03	372500	90010	911950	9120	30580	911950	911950	
					Bad debts written of @ 30%	9174	273585		
					Less: Interest income		30580		
					Less: Expenses on comm.in come		87050		

						21406	520735	87050	629191
AY 04 - 05	Apr'03	336000	124260	1123690	11237				
	May'03	356000	156120	1323570	13236				
	Jun'03	228000	204510	1347060	13471				
	Jul'03	427000	228360	1545700	15457				
	Aug'03	517500	267310	1795890	17959				
	Sep'03	226000	302050	1719840	17198				
	Oct'03	529500	315270	1934070	19341				
	Nov'03	256600	352690	1837980	18380				
	Dec'03	593000	374280	2056700	20567				
	Jan'04	504500	378915	2182285	21823				
	Feb'04	437000	405450	2213835	22138				
	Mar'04	786000	428100	2571735	25717	216524	1659785	1659785	
					Bad debts written of @ 30%	64957	497936		
				Less: Int. income		216524			
				Less: exp. On comm.in come		178633			
					151566	766693	91583	1009842	
AY 05 - 06	Apr'04	686300	470990	2787045	27870				
	May'04	955500	513860	3228685	32287				
	Jun'04	783500	579570	3432615	34326				
	Jul'04	1247500	618350	4061765	40618				
	Aug'04	994500	683370	4372895	43729				
	Sep'04	743000	737580	4378315	43783				
	Oct'04	989500	777040	4590775	45908				
	Nov'04	1127000	807320	4910455	49105				
	Dec'03	953800	866830	4997425	499974				
	Jan'05	654200	928560	4723065	47231				
	Feb'05	646900	934820	4435145	44351				
	Mar'05	238500	949110	3724535	37245	496427	1152800	2064750	
					Bad debts written of @ 30%	148928	345840		
				Less: Int. income		496427			
				Less: exp. On comm.in come		206821			
					347499	103712	28188	479399	
AY 07 - 08	Apr'06	2066600	2001133	10209437	102094				
	May'06	1848600	2106703	9951334	99513				
	Jun'06	1416500	2198938	9168896	91689				
	Jul'06	1927800	2244393	8852303	88523				
	Aug'06	2679700	2303293	9228710	92287				
	Sep'06	2318850	2426880	9120680	91207				
	Oct'06	2475800	2505730	9090750	90908				
	Nov'06	2514600	2607340	8998010	89980				
	Dec'06	1998700	2688005	8308705	83087				
	Jan'07	2323200	2715495	7916410	79164				
	Feb'07	2396200	2733565	7579045	75790				
	Mar'07	3137700	2840345	7876400	78764	106300 7			
					Bad debts written of @ 30%	318902	--		
					744105	-	32405	776510	
AY 08 - 09	Apr'07	2908500	2974595	7810305	78103				
	May'07	3851000	3135579	8525726	85257				
	Jun'07	3217400	3295624	8447502	84475				
	Jul'07	3538300	3352184	8633618	86336				
	Aug'07	2989200	3479379	8143439	81434				
	Sep'07	2709000	3543296	7309143	73091				
	Oct'07	2362800	3620696	6051247	60512				
	Nov'07	124000	3616481	2558766	25588				
Dec'07	10000	3477966	-909200		574797				
				Bad	172439				

					debts written of @ 30%				
						402358		69849	472207

8.2 I find that the Tribunal had directed the AO to allow 30% of the advances given as bad debts and therefore, the interest income thereon also has to be reduced by i.e. 30%. With regard to the expenses disallowed on commission income, I agree with the contention of the Id. counsel for the assessee that the same has to be considered as is available with the assessee for making fresh advances during the year. In view of the same, I direct the AO to allow 30% of the gross advances as well as interest thereon as bad debts by 30% and disallowed expenses on commission income be telescoped as sources for fresh advances during the year. With these directions, the appeals of the assessee are treated as allowed for statistical purposes.

9. In the result, all the appeals under consideration are allowed for statistical purposes.

Pronounced in the open court on 17<sup>th</sup> December, 2019.

Sd/-  
(P. MADHAVI DEVI)  
JUDICIAL MEMBER

Hyderabad, dated 17<sup>th</sup> December, 2019.

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Copy forwarded to:

1. Inderjeet Singh, C/o P. Murali & Co., CAs, 6-3-655/2/3, 1<sup>st</sup> Floor, Somajiguda, Hyderabad – 82
2. ACIT, Circle – 4(1), Hyderabad.
3. CIT(A) – 1, , Hyderabad.
4. Pr. CIT – 1, Hyd.
5. The DR, ITAT, Hyderabad
6. Guard File