

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "SMC", HYDERABAD**

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

**I.T.A. No. 1218/HYD/2019**

Assessment Year: 2013-14

Randeep Gampa, HYDERABAD [PAN: AEGPG6498A]	Vs	Income Tax Officer, Ward-9(4), HYDERABAD
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**(Appellant)**

**(Respondent)**

For Assessee	:	Shri M.V.Anil Kumar, AR
For Revenue	:	Shri Nilanjan Dey, DR

Date of Hearing : 30-12-2019

Date of Pronouncement : 30-12-2019

**ORDER**

This appeal filed by the assessee for the AY.2013-14, is directed against the order of the Commissioner of Income Tax (Appeals)-7, Hyderabad, dated 29-05-2019. The Grounds raised by assessee in this appeal are as under:

*"1. The assessing officer as well as CIT(A) erred in law and facts of the case in estimation of perquisite value of furniture at Rs. 20,000/- in absence of any evidence that the accommodation is furnished.*

*2. The CIT(A) ought to have considered the vouchers produced for verification and appreciated the fact that the amounts received are trade advances and hence, provisions of the section 68 are not applicable to the facts of the case, therefore the addition of Rs.8,06,500/- may be deleted.*

*3. Your, Appellant submits that the amounts received are towards trade advances which are subsequently returned in the event of non-supply of material, hence, the addition u/s. 68 is bad in law.*

*4. Your appellant submits that the CIT(A) erred in holding that the stand taken by the appellant that the amounts are trade advances is an after thought, without appreciating the fact that the appellant runs*

*a retail business ought to have considered the submission and delete the addition u/s 68.*

*5. The CIT(A) as well as the assessing officer ought to have appreciated the fact the amount received and repaid are in the same financial year and cannot be considered as unexplained cash credit.*

*6. For these grounds and such grounds as may be urged at the time of hearing, your appellant prays that the additions may be deleted”.*

2. Brief facts of the case are that, the assessee, an individual, is a proprietor of M/s.Ganapa Enterprises. He filed his return of income for the AY.2013-14, declaring income from salary, income from house property and also profit from business of proprietorship concern and claimed loss from other sources. Subsequently, he filed a revised return of income for the AY.2013-14 on 30-01-2014, declaring total income of Rs.11,12,420/-. The said return of income was selected for scrutiny under CASS and during the assessment proceedings u/s.143(3) of the of the Income Tax Act [Act], the Assessing Officer (AO) noticed that the assessee has received a rent free accommodation from the company. Assuming that it is a furnished accommodation, the AO has treated 10% cost of the furniture (including TV set, refrigerator, air-conditioners etc.) i.e., Rs.20,000/- as a ‘perquisite’ under the head ‘income from salary’.

2.1. Thereafter, the AO also perused the books of account and on verification of the Cash Book, noticed that the assessee has accepted cash loans of below Rs.20,000/- on various dates, totalling to Rs.9,01,500/-. The assessee was therefore required to furnish the details such as addresses and complete

list of names of persons, who have advanced loans. The assessee failed to furnish the required information, but stated that sum of Rs.8,06,500/- were advance from customers and not loans and the loans are only aggregating to Rs.95,000/-. The AO verified the same and accepted the assessee's explanation to the extent of Rs.95,000/-, which are the loans from relatives and insofar as the balance of Rs.8,06,500/- is concerned, the AO treated it as 'un-explained cash credits' u/s.68 of the Act and brought it to tax.

2.2. Aggrieved, the assessee preferred an appeal before the CIT(A), who confirmed the order of AO as far as these two Grounds are concerned and the assessee is in second appeal before the Tribunal.

3. As regards Ground No.1, the Ld.Counsel for the assessee submitted that it was assessee's own accommodation, which was taken on lease by the company and given to the assessee as a rent free accommodation. He submitted that the income received from the company has been offered by the assessee to tax as 'income from house property'. He submitted that the assessee was given the said property as rent free accommodation by the company and it was not a furnished accommodation and therefore, there was no need for estimation of value of the furniture and treating it as a perquisite in his hands.

4. Ld.DR was also heard.

5. I find that the assessee's own accommodation has been taken on lease and given back to him as rent-free accommodation by the company. Therefore, the furniture if any, belongs to assessee-individual himself and the same cannot be treated again as a perquisite given by the company to the assessee. Therefore, I am inclined to delete the addition of Rs.20,000/- made by the AO.

6. As regards the cash credits are concerned, none of the cash credits are exceeding Rs.20,000/-. The assessee though initially has stated them to be loans, has subsequently clarified that they are trade advances and that for non-supply of material, the assessee had returned those advances. Both the AO as well as the CIT(A) have refused to accept this contention of the assessee on that ground that the assessee was not able to produce the details to establish the identity of those persons from whom he has taken loans/advances.

6.1. The Ld.Counsel for the assessee also made an alternative argument before the Tribunal that the said credits may be treated as turnover of the assessee and income may be estimated on such turnover.

6.2. Ld.DR did not agree to the same and submitted that since the assessee, has failed to submit identity of the creditors, entire credits are to be treated as 'income of the assessee' u/s.68 of the Act.

6.3. Ld.Counsel for the assessee has drawn my attention to the evidence filed by the assessee before the CIT(A) i.e., the vouchers given for return of the advances by the assessee.

6.4. Having regard to the rival contentions and also the evidence furnished before the CIT(A), I am inclined to accept the alternative claim of the assessee. All these credits are to be treated as total turnover/gross receipts of the assessee and the income of assessee is to be estimated at the same rate, at which the assessee has offered his business income. AO is directed accordingly.

7. In the result, the appeal of assessee is treated as partly allowed for statistical purposes.

*Order pronounced in the open court on 30<sup>th</sup> December, 2019*

Sd/-  
**(P. MADHAVI DEVI)**  
**JUDICIAL MEMBER**

Hyderabad, Dated: 30-12-2019

TNMM

*Copy to :*

- 1. Shri Randeep Gampa, C/o.M.Anandam& Co., Chartered Accountants, Flat No.7A, Surya Towers, S.P.Road, Secunderabad.*
- 2. Income Tax Officer, Ward-9(4), Hyderabad.*
- 3. CIT(Appeals)-7, Hyderabad.*
- 4. Pr.CIT-7, Hyderabad.*
- 5. D.R. ITAT, Hyderabad.*
- 6. Guard File.*