

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad**

(Through Video Conferencing)

**Before Smt. P. Madhavi Devi, Judicial Member
AND
Shri D.S. Sunder Singh, Accountant Member**

ITA No. 681/Hyd/2019		
Assessment Year: 2012-13		
Sh.Ajay Kumar Tangellapally Hyderabad PAN: ACIPT8029J (Appellant)	Vs.	ITO, Ward 13(4) Hyderabad (Respondent)
Asessee by:		Sh. S. Rama Rao
Revenue by:		Smt. Anjala Sahu, D.R.
Date of hearing:		01/09/2020
Date of pronouncement:		04/09/2020

ORDER

Per Smt. P. Madhavi Devi, J.M.

This is an appeal filed by the assessee for the A.Y. 2012-13 against the order of the CIT(Appeals)-4, Hyderabad dated 06.03.2019. Before the Tribunal, the assessee has raised the following grounds of appeal.

- 1) The order of the learned Commissioner of Income-Tax (Appeals) is erroneous both on facts and in law.*

- 2) *The learned Commissioner of Income-Tax (Appeals) erred in confirming the action of the Assessing Officer in initiating proceedings u/s 153C of the I.T. Act.*
- 3) *The learned Commissioner of Income-Tax (Appeals) erred in confirming the addition of Rs. 15 lakhs made by the Assessing Officer on the ground that the appellant paid the said amount to Chalimeda Ananda Rao Institute of Medical Sciences at Bommakal Village run by Arihant Educational Society, without considering the explanation that no such amount was paid by the appellant to the college.*
- 4) *The learned Commissioner of Income-Tax (Appeals) erred in holding that the loan amount of Rs.7.50 lakhs was not available for payment of fee and erred in confirming the addition made of Rs.7,50,000/-.*
- 5) *The learned Commissioner of Income-Tax (Appeals) erred in mentioning that only about 25% of the salary of the year could be saved and is available. The learned CIT (Appeals) ought to have accepted the facts stated by the appellant.*
- 6) *The learned Commissioner of Income-Tax (Appeals) erred in confirming the action of the Assessing Officer in adding Rs.19,21,400/- to the income admitted.*
- 7) *The learned Commissioner of Income-Tax (Appeals) erred in confirming levy of interest u/s 234A, 234B and 234D of the I.T.Act.*
- 8) *Any other ground that may be urged at the time of hearing.”*

2. Brief facts of the case are that the assessee, an individual and employee of Government of Andhra Pradesh, filed his return of

income for the A.Y. 2012-13 declaring total income of Rs.5,14,470/- There was a search and seizure operation u/s 132 of the I.T.Act, 1961 on 25.07.2013 in the case of M/s Arihant Educational Society located at Bommakal Village, Karimnagar District and also at D.No. 301 & 302, Pavani Estates, Liberty Road, Himayathnagar, Hyderabad which is running a medical college in the name of Chalimeda Ananda Rao Institute of Medical Sciences at Bommakal Village, Karimnagar. During the course of the search operation, the evidences indicating collection of capitation fee/donation over and above the regular fee fixed by the Government for management quota seats in the medical college were found and seized. As per the seized material, the assessee got his daughter admitted in MBBS for the academic year 2011-12 in the said medical college by making payment of Rs.27,50,000/- as regular fee prescribed by the government and Rs.15,00,000/- in cash as donation/capitation fee.

2.1. Therefore, the assessee was issued a notice u/s 153C of the I.T. Act, 1961 on 17.03.2017 in response to which, assessee appeared and furnished copies of:

- a. ITRs and computation of total incomes for AYs 2010-11, 2011-12 and 2012-13;
- b. Copies of credit sanction intimation of Corporation Bank for Rs.5,00,000/- dt. 18.5.2015;
- c. Copy of credit sanction intimation of Corporation Bank for Rs.7,50,000/- dt. 4.5.2012; and
- d. Fee receipt copies dt. 11.7.2012, 27.10.2013, 23.8.2014 and 24.7.2015.

Thus, the assessee submitted that the assessee has not paid any fees over and above the fee fixed by the Government. However, the AO observed from the seized documents that total agreed fee was Rs.42,50,000/- out of which assessee paid Rs.20,50,000/- and the amount due was Rs.22,00,000/-. In this background, the assessee's sources for payment of Rs.20,50,000/- were to be verified. The A.O. observed that during the relevant A.Y. 2012-13, funds available with the assessee were only Rs.1,28,600/- where as assessee has paid Rs.20,50,000/-. Therefore, the balance of Rs.19,21,400/- was treated as unexplained income and brought to tax.

2.2. Aggrieved, the assessee preferred an appeal before the CIT(A), who confirmed the order of the A.O. and the assessee is in second appeal before the Tribunal.

3. The Ld.Counsel for the assessee reiterated the submissions made by the assessee before the A.O. and CIT(A) and further submitted that the assessee explained the sources both before the A.O. as well as CIT(A) but they have not considered assessee's contentions but have summarily rejected the submissions of the assessee. Ld.Counsel for the assessee submitted that if given the opportunity, the assessee is ready to furnish and again explain the details of the sources for making the payment. He has referred to the written submissions filed by the assessee before the CIT(A) and also the other documents as proof of sources for the payment. He has also placed reliance upon the decision of Coordinate Bench in the case of Venkata Satya Surya Sree Ranganadha Raju Alluri in

ITA 2070/Hyd/2018 for AY 2012-13, wherein under similar facts and circumstances the Tribunal had deleted the addition.

3.1. Ld.DR, however, submitted that the assessee has failed to explain the sources of payments before the AO as well as the CIT(A).

4. Having regard to rival contentions and material placed on record, we find that though the assessee has filed the relevant details before the authorities below, they have not considered the same and have not passed a speaking order on the acceptability or otherwise of the evidence filed by assessee. In view of the same, we deem it fit and proper to remand the issue to the file of A.O. for de-novo consideration after affording the assessee an opportunity of hearing and to file all relevant details. The A.O. shall also consider the decisions of the Tribunal in similar cases, before passing the assessment order.

5. In the result, assessee's appeal is treated as allowed for statistical purposes.

Order pronounced on 04th September 2020.

Sd/- (D.S. SUNDER SINGH) ACCOUNTANT MEMBER	Sd/- (P. MADHAVI DEVI) JUDICIAL MEMBER
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Hyderabad, dated 04th September, 2020.

**gmv*

Copy to:

- 1 Shri Ajay Kumar Tangellapally, Plot No. 530/E, Prasanth Nagar,
Vanasthalipuram, Hyderabad.
- 2 ITO, Ward 13(4), Hyderabad
- 3 Pr.CIT-4, Hyderabad
- 4 ACIT, Range 5, Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File