

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

**(Through Video Conference)**

**Before Shri S.S. GODARA, Judicial Member  
and  
Shri L.P. SAHU, Accountant Member**

**ITA No. 1068 to 1071/Hyd./2018  
A.Y. : 2005-06, 2006-07, 2009-10 & 2010-11**

[Late Shri D. Siva Prasad Reddy] vs. Dy.CIT, Central Circle  
Represented by L/H D.Padmaja Tirupati  
Reddy  
Hyderabad.  
[PAN: ALTPS8164K]

**&**

**ITA No. 1072/Hyd./2018  
Assessment Year: 2010-11**

Devi Reddy Padmaja vs Dy.CIT, Central Circle  
Chennai Tirupati  
[PAN: AAAIPD2400M]

**(Appellant)**

**(Respondent)**

**For Assessee:** Shri B. Ramakrishnan, A.R.  
**For Revenue:** Smt. Nivedita Biswas, D.R.

**Date of Hearing** : 24/02/2021  
**Date of Pronouncement** : 07/04/2021

**ORDER**

**PER S.S. GODARA, J.M.**

The instant batch of five appeals pertains to two taxpayers Shri D. Shiva Prasad Reddy and his wife Smt. Devi Reddy Padmaja; herein referred to as the 'former' and the 'latter'

assesseees; respectively. The former assessee's four appeals ITA 1068 to 1071/Hyd/18 arise from the CIT(A)-3, Visakhapatnam's separate orders; all dated 31.3.2018, for assessment years 2005-06, 2006-07, 2009-10 and 2010-11 in case nos. 500 to 504/2017-18; respectively. The latter assessee's sole appeal ITA 1072/H/18 is directed against the very CIT(A)'s order dated 12.03.2018 passed in case no.499/2017-18 for assessment year 2010-11. Relevant proceedings in all these cases are u/s 143(3) r.w.s 153A of the Income Tax Act, 1961; in short 'the Act'.

Heard both the assesseees through Shri B.Ramakrishnan (FCA) and Smt.N.Biswas; learned CIT-DR appearing for assesseees and Revenue; respectively.

2. We proceed to the former assessee's appeals ITA 1068 to 1071/H/18 for AY 2005-06, 2006-07, 2009-10 and 2010-11. His sole substantive grievance in former's two appeals herein challenges correctness of both lower authorities action adding two alleged unaccounted receipts of Rs. 30 lakhs qua distribution rights of the movie "Nenunnanu-" and sundry creditors amount of Rs.14,01,000/- representing M/s Kamakshi Enterprises; respectively. The CIT(A)'s detailed discussion in paras 4.1 confirming the impugned addition of unaccounted receipts of Rs.30 lakhs reads that he has not only considered the relevant incriminating material Annexure-A/DSPR/01 found and seized during the course of search company presumption of truth

u/s 132(4) r.w.s.292C of the Act but also discussed the assessee's modus operandi, his search statement.

2.2. Learned Authorised Representative fails to rebut all these clinching facts and findings. No rebuttal to correctness of all this material has come from the taxpayer's side. We thus accept learned CIT-DR's vehement arguments supporting the impugned additions of unaccounted receipts of Rs.30 lakhs. This addition stands confirmed.

Assessee's appeal 1068/H/18 for AY 2005-06 fails therefore.

3. Next comes sundry creditors addition of Rs.14,01,000/- in ITA 1069/H/18 for AY 2006-07. We notice herein as well that the CIT(A) has followed the very detailed discussion as already held in the preceding AYs since based on the seized material only. We thus follow judicial consistency to affirm CIT(A)'s findings in the instant second AY 2006-07 as well. This assessee's appeal ITA 1069/H/18 is also declined.

4. We now move to AY 2009-10 involving assessee's appeal 1070/Hyd/18 challenging correctness of both the lower authorities action adding alleged unexplained liability of Rs12 lakhs. It emerges during the course of hearing that the impugned sum represents three alleged promissory notes; all dated 18.03.2009 in the names of Shri J.N. Chandra Reddy, J.Madhupalathi and J.N. Shanthi involving sum of Rs. 5 lakhs in former two cases and Rs.2 lakhs in the last instance;

respectively. We notice that the search in question had found and seized those original promissory notes than photocopies thereof which sufficiently indicates that the corresponding loan transactions had not been completed as the original documents in such a case is supposed to be with the creditor only. Coupled with this, Ms. Biswas fails to rebut that the learned lower authorities have added the loan amounts only whose source; going by the contents of the seized documents, ought not to be treated as assessee's unexplained income since the same belongs to the named third parties only. We also wish to clarify here that the Revenue has failed to pinpoint any payment from assessee's side for the promissory note(s) in issue. We thus direct the Assessing Officer to delete the impugned addition of Rs.12 lakhs in AY 2009-10 in foregoing terms. This third appeal ITA 1070/H/18 succeeds therefore.

5. Next Assessment Year 2010-11 contains ITA 1071/H/18 filed at former assessee's behest seeking to reverse both the lower authorities action adding an amount of Rs.1,63,46,295/- representing borrowals from Shri G. Shoban Babu and interest thereof. Learned lower authorities have themselves identified source of impugned loan in other words that the sum indicates that repayment of the very sum to Shri Shoban Babu only. This repayment of principle sum does not represent diversion of assessee's alleged unexplained income in other words. We also accept Revenue's stand supporting impugned addition at the same time and direct the Assessing Officer to restrict the impugned

addition only to the extent of interest payment component from the assessee's side made to Shri Shoban Babu. He shall further ensure that the assessee is granted telescoping benefit of the corresponding unaccounted receipts amount of Rs.30 lakhs in AY 2005-06 & sundry creditors addition of Rs.14,01,000/- (supra) against the unaccounted interest payment addition in the impugned assessment year 2010-11 as per law. Necessary computation shall follow. This last appeal ITA 1071/H/18 is partly accepted in foregoing terms.

6. We are now left with latter assessee's appeal ITA 1072/H/18 for AY 2010-11 seeking to reverse both the lower authorities action adding a sum of Rs.9,43,703/- as unexplained cash credits.

The CIT(A) has discussed this entire issue as under:

*"4. I have carefully considered the grounds raised in the appeal, written submissions and the decision of the Assessing Officer in the assessment order. There are (2) grounds raised by the appellant in the appeal. Ground no (1) is general in nature, hence, no separate adjudication is required and Ground no.(2) is with reference to bank deposits treated as 'unexplained credits' and is the only ground to be considered in the appeal.*

*4.1. The basic facts of the case are that the appellant husband is in the business of money lending for film production. A Search & Seizure action u/s.132 was carried out in the residential premises of Sri D. Siva Prasad Reddy, the husband of the appellant on 23.03.2011. The Assessing Officer after perusing the bank account of Royal Bank of Scotland and also Andhra Bank, Chennai, the cash*

*deposits made in the bank account to the extent of Rs.10,34,874/- on various dates has been treated as 'unexplained deposits' in the absence of explanation. While doing so, the Assessing Officer has given credit for the return of income of Rs.91,144/ - and the remaining amount was treated as unexplained deposits.*

*4.2. The appellant has filed written submissions during the appellate proceedings and explained that the appellant is earning Interest income and filing returns of income accordingly. It was claimed that the amount of Rs.10,34,874/- was deposited out of her past savings from the earlier financial years. Hence, requested for deletion of addition.*

*4.3. I have carefully considered the written submissions, arguments of the appellant and findings of the Assessing Officer in the assessment order. The Assessing Officer has not disputed that the appellant is in the business of money lending. It is seen from the return of income that the appellant has been showing the interest income. The Assessing Officer has treated the entire deposits as unexplained cash credits of the appellant probably keeping the provisions of Section 68 in the mind.*

*4.4. During the appellate proceedings. the appellant has argued that the sources for the deposits are her past savings. However, no proof was adduced before me to substantiate her claim. In all fairness, the Assessing Officer has given credit for Rs91,144/- and taxed at Rs. 9,43,730/- I do not find any reason to interfere in the decision of the Assessing Officer. Accordingly, the addition made by the Assessing Officer is confirmed.”*

6.1. The assessee's only stand in tune with her pleadings throughout is that the impugned sum represents past savings only. Mr. Ramakrishnan fails to rebut the clinching fact that this assessee has not even filed her cash flow statement so as to explain source of the amount in issue. We thus confirm the impugned addition of Rs.9,43,730/- going by CIT(A)'s detailed discussion. This last appeal ITA 1072/H/18 fails therefore.

To sum up, former assessee's appeals 1068 and 1069/H/18 are dismissed, 1070/H/18 is allowed; 1071/H/18 is partly allowed and latter assessee's sole appeal 1072/H/18 is dismissed in above terms.

A copy of this common order be placed in the respective case files.

Order pronounced in Open Court on 07/04/2021.

Sd/-

**(L.P. SAHU)**  
**ACCOUNTANT MEMBER**

Sd/-

**(S.S. GODARA)**  
**JUDICIAL MEMBER**

Dated: 07<sup>th</sup> April, 2021

\*gmv

Copy of Order forwarded to:

1. L/R Smt D. Padmaja [L/H of Late D.Siva Prasad Reddy] C/o CNGSN & Associates LLP, Swathi Court, Flat C & D, No.43 (Old no.. 22), Vijayaraghava Road, T.Nagar, Chennai 600 017.
2. DCIT, Central Circle, Tirupathi
4. CIT(A)-3, Visakhapatnam
5. Pr.CIT-3, Visakhapatnam
6. D.R. ITAT Hyderabad
7. Guard File