

IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH : BANGALORE

BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND SMT. BEENA PILLAI, JUDICIAL MEMBER

ITA No. 679/Bang/2020
Assessment year: 2016-17

VES Model Convent, Tavarrekere Vishal Education Society, 63, Old Survey No. 195/196, Magadi Main Road, Tavarekere – 562 130. <b>PAN: AAATV 6531F</b>	Vs.	The Income Tax Officer, Exemption Ward 2, Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Dr. N. Suresh, CA
Respondent by	:	Shri Kannan Narayanan, Jt. CIT(DR), ITAT, Bengaluru.

Date of hearing	:	22.07.2021
Date of Pronouncement	:	22.07.2021

**ORDER**

*Per Chandra Poojari, Accountant Member*

This appeal by the assessee is directed against the order dated 31.8.2020 of the CIT(Appeals), Bengaluru-14, Bengaluru for the assessment year 2016-17.

2. The assessee has raised ground with regard to disallowance of salary paid to the specified person at Rs.10,42,091 as unreasonable.

3. The facts of the case are that the assessee paid an amount of Rs.15,59,800 to Mrs. Uma Suresh as remuneration. She is a specified person u/s. 13(2)(c) of the Income-tax Act, 1961 [the Act] being spouse of

the trustee, Mr. Suresh. She has been working as administrative employee in the institution. The AO compared her salary with that of Sri S.V. Narasimha Murthy who was paid at Rs.5,17,709. Accordingly the AO was of the opinion that she could not be paid Rs.15,59,800 compared to Sri S.V. Narasimha Murthy who was paid Rs.5,17,709 and disallowed Rs.10,42,091. The same was sustained by the CIT(Appeals). Against this, the assessee is in appeal before us.

4. We have heard both the parties and perused the material on record. It was brought on record and the assessee explained that the duties and responsibilities discharged by Smt. Uma Suresh are entirely different from Sri S.V. Narasimha Murthy, who was an ordinary employee and was taking instructions from Mrs. Uma Suresh. The brief profile, roles and responsibilities of Smt. Uma Suresh are as follows:-

**“Mrs. SUMA SURESH**

**Brief Profile & Roles and Responsibilities.**

Her brief profile is given below:

- Completed B.com in the year 1994, pursued ICWAI in the same year, has completed NIIT computer training.
- From 1996 to 2001 she worked in a Chartered Accountants office as a senior audit assistant, where she got well versed with Accountancy, Book Keeping, Tax Matters, Administration & Management of Organisations, etc.
- From the year 2001 to 2010 she was working in VES MODEL CONVENT as an Admin In charge on an honorary basis (without even taking a Rupee salary, not only that she was not claiming even the conveyance)

- She is the root cause for the growth of the Institution from a very meagre strength in the year 2001 to a current strength of 913 students.
- The school had 79 employees, during the said year — both teaching and non-teaching staff. To manage 913 students, 913 parents and 100+ employees and coordinating with the statutory educational bodies is really a Herculean task for anyone and only a person, like Smt.Suma Suresh, who has sheer passion to serve can efficiently and effectively handle and cause satisfactory results.
- Dedicated herself neglecting the working hours for the growth brought the Institution from rented premises to own new premises. She has sacrificed her personal life and family life for the sake of school and for the interest of the students.
- Provides administrative guidance and support to the Principal, teachers, and other staff and inculcates discipline in each and every act of the School.
- Ensures discharge of quality work from teaching staff to aim high and to get good academic results.
- Coordinates with academic boards, governing bodies, and other educational departments.
- Deals with the feedbacks, queries and complaint procedures both from parents and staff.
- Coordinates the examination and other activities & processes.
- Assists with recruitment and marketing / promotional activities.
- Manage budgets and ensures financial systems are followed.

- Maintains accounts of the Society, ensures that all the statutory provisions relating to P. Tax, TDS, ESI, PF etc are duly complied with.
- Coordinates with the auditors for audit finalisation
- Causes to file the TDS Returns, I.T>Returns, ESI & PF Returns, P.Tax returns, filing of annual returns with the Registrar of Firms etc
- Assists the management in assessing the requirement of and in decision making for the purchase of capital equipment, furniture and other necessities.
- Her interpersonal skills have helped us to retain good teachers. Even though the School is situated 20-25 kms away from Bengaluru, teachers are willing to work with the school because of the good rapport between the teachers and the School, cemented through the interpersonal skills of Smt.Suma Suresh.

In her leadership, the results are spectacular and in many years the school has the distinction of getting 100 % results in ICSE. During the F.Y. 2015-16 also, the school achieved 100% results in ICSE and 95% result in SSLC.

The work will be challenging particularly during the start of the academic year and Smt.Suma Suresh handles everything with great ease.

In a nutshell, Smt.Suma Suresh, even though she is not designated as such, has been performing MULTIPLE TASKS which inter alia involve the duties of THREE EXECUTIVES:

1. Chief Executive Officer
2. Chief Finance Officer and
3. Public Relations Officer.”

5. The duties and responsibilities of Sri S.V. Narasimha Murthy are as follows:-

**“CURRICULUM VITAE**

S.V. Narasimhamurthy,  
21/8, VI Cross, I Main Kengeri Satellite Town,  
Bangalore-60.

Educational Qualification : B.A.

Professional Experience:

Lecturer : Bapuji Independent Pre University College, Badagandi

**Duties and Responsibilities:**

1. Teaching English Language and Literature, Counseling, Coordinating with management for smooth functioning of the college, and the management.
2. Conducting Examinations.
3. Preparing timetable for the department of English.

**Academic achievements**

1. Designing Curriculum for Business English Communications
2. Conducting Examinations
3. Preparing timetable for the Department of English.

Personal details:

Full name: Subbaiah Venkatesh Narasimha Murthy

Date of Birth : 06.07.1964

Nationality : Indian

Gender : Male

Marital status: Married (Radha V currently working as a teacher)

Languagues known:	Speak	Read	Write
	English	English	English
	Kannada	Kannada	Kannada
	Hindi	Hindi	Hindi
	Telugu		

Address : 21/8, VI Cross, I Main,  
Kengeri Satellite Town, Bangalore – 560 060.

Salary expected : Negotiable

List of References:

1. Sri H B Dharmannavar  
Administrator  
Patil Education Foundation.
2. Mrs. Saradalakshmi  
Principal,  
Narayana Techno School.”

6. There is a vast difference between the duties and responsibilities performed between these two persons which are as follows:-

**COMPARITIVE STATEMENT OF ACTIVITIES DONE BY Mrs.SUMA SURESH & Mr. S.V Narasimha Murthy.**

<b>Mrs.Suma Suresh</b>	<b>Mr.Narasimha Murthy S.N</b>
Purpose, object & intent of appointment is to make her the Administrative Head of the School	Ordinary Employee, taking orders for regular works from the Administrative Head.
Unlimited, unconditional, uncompromising Broad Spectrum multiple multifarious services rendered throughout the year.	Role is very much limited & is a microscopic subset of the sigma of the services, compared to what is rendered by Mrs.Suma Suresh
Independent decision-maker, requiring no direction or supervision	Requires reminders for even routine matters; also requires continuous direction and supervision
Her tasks are always dynamic, kinetic & varied in nature, requiring various systematic & strategic application of skillsets, competencies & abilities. 29 different events conducted during the year for Nursery to 10 <sup>th</sup> students	Predefined tasks, nothing dynamic in nature; premeditated, monotonic & mechanical in nature.

Unlimited work time, Services rendered are requiring 24hours a day/7 days a week/365days attention. Many a time the schedule extends to transcend her personal & family life too.	Limited working of 8 hours a day (with breaks, in between) & he leaves for the day soon after the school bell is rung
Each day demands her absolute attention; a lot of new challenges crops up every day, each requiring a lot of	He was assigned with a specific job & his services are confined to the conclusion of the task assigned.

experience & exposure to multidisciplinary multitasking skills, which she efficiently handles.	
No leave, no holidays, even on General holidays she is required to attend various activities. Each day mandates her involvement irrespective of holidays	Enjoys leave as per statutes, enjoys holidays.
Attends both School & College works, complete administrative & management activities.	He attends his school work mainly by teaching his subject only
She is accountable & answerable to the Management, Parents, Employees, Auditors, General Public, various Statutory Authorities & Regulatory bodies.	Accountable only to her, only for the work assigned to him
She has been associated with the school since 2001-02, actively involved in all the activities, knows each one of the employees, each of the student & most of the parents, aware of each asset of the school at each nook & corner of the Organisation	He has worked just over a year. Not required to know anything other than what he is required to teach.

7. Being so, in our opinion, the salary paid to Smt. Uma Suresh cannot be compared with Sri S.V. Narasimha Murthy and the duties and responsibilities discharged by these two persons are entirely different. Smt. Uma Suresh being well qualified was incharge of entire institution and payment of salary should be commensurate with her qualification and duties discharged by her. Being so, the salary paid to her at Rs.15,59,800 is very reasonable and the lower authorities are not justified in invoking the provisions of section 13(2)(c) of the Act. This view of ours is also fortified by the following judgments:-

- CIT v. Sri Balaji Society, 260 Taxman 246 (Bom)
- Dy.CIT(E) v. Jyoti Vidyapeeth Trust
- Dy. CIT(E) v. St. Xavier Educational & Charitable Trust
- Dy. CIT v. World Institute of Sustainable Energy
- Young Scholars Educational v. ITO, 012 ITR (Trib) 640 (Chd)

8. Accordingly, we allow the grounds taken by the assessee.

9. In the result, the appeal by the assessee is allowed.

Pronounced in the open court on this 22<sup>nd</sup> day of July, 2021.

Sd/-  
( BEENA PILLAI )  
JUDICIAL MEMBER

Sd/-  
( CHANDRA POOJARI )  
ACCOUNTANT MEMBER

Bangalore,  
Dated, the 22<sup>nd</sup> July, 2021.

*/Desai S Murthy /*

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.