

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD ' A ' BENCH, HYDERABAD.**

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER AND  
SHRI L. P. SAHU, ACCOUNTANT MEMBER  
(Through Virtual Hearing)**

**ITA Nos.804 to 810/Hyd/2015  
(Assessment Years : 2005-06 to 2011-12)**

Late Shri A. Narasimha Reddy,  
Repr. By his LR Sri A. Ashok Simha Reddy,  
Hyderabad.  
PAN ADCPA 5592N .....Appellant.  
Vs.  
Dy. Commissioner of Income Tax,  
Central Circle 3(1), Hyderabad. ....Respondent.

**ITA No.777/Hyd/2015  
(Assessment Year : 2009-10)**

Asst. Commissioner of Income Tax,  
Central Circle 3(1), Hyderabad. ....Appellant.  
Vs.  
Late Shri A. Narasimha Reddy,  
Repr. By his LR Sri A. Ashok Simha Reddy,  
Hyderabad. ....Respondent.

Assessee By : Shri A.V. Raghuram.  
Revenue By : Shri Danda Srinivas. (D.R.)

Date of Hearing : 19.07.2021.  
Date of Pronouncement : 22.07.2021.

**O R D E R**

**Per Shri S.S. Godara, J.M. :**

The instant batch of eight cases pertains to a single assessee Shri A. Narasimha Reddy. The assessee's appeals 804 to 810/Hyd/2015 for Assessment Years 2005-06 to 2011-12 and Revenue's cross appeal 777/Hyd/2015 for Assessment Year 2009-10 only, arise against the CIT(A)-XI, Hyderabad common order dt.25.03.2015 passed in case Nos.0214-0220/CC-8/CIT(A)-XI/13-14/14-15 in proceedings u/s.143(3) rws 153A of the I.T. Act for AYs 2005-06 to 2010-11 and u/s.143(3) for A.Y. 2011-12; respectively.

Heard both the parties. Case files perused.

2. We first take up Revenue's appeal 777/Hyd/2015 for adjudication. Learned CIT-DR fails to dispute the clinching fact therein that the same involves tax effect lower than the prescribed limit of Rs.50 lakhs as per the CBDT Circular Dt.8.8.2019 held to be applicable with retrospective effect for pending appeals as well. We thus reject the Revenue's

instant appeal 777/Hyd/2015 for involving lower than the prescribed tax effect.

3. We next come to the assessee's appeals ITA Nos.804 to 810/Hyd/2015 involving identical questions of law and facts. Learned authorized representative states very fairly that this assessee does not wish to press for disallowance(supra) of agriculture income amounting to -

(i) Rs.1,20,000 (A.Y. 2005-06)

(ii) Rs.1,32,000 (A.Ys. 2006-07 & 2007-08)

(iii) Rs.1,60,000 (A.Y. 2008-09)

(iv) Rs.1,65,000 (A.Y. 2009-10) along with

(v) addition on account of unexplained money in the nature of promissory notes from chit subscribers of Rs.70,000; Rs.4 lakhs and Rs.15 lakhs in A.Ys 2005-06; 2009-10 and 2011-12 and unexplained investment in land at Mangalpally village, R.R. District of Rs.3,85,000 in A.Y. 2006-07; respectively keeping in mind the smallness of the sums involved therein. Rejected accordingly.

4. This leaves us with assessee's identical former three substantive grounds in all these appeals seeking to reverse both the lower authorities identical action, inter alia, estimating turnover of Rs.8.28/-, 11.04/-, 12.6/-, 15/-, 15.36/-, 16.8/- and 18.96/- (all in crores) than that declared of Rs.6.96/-, 6.64/-, 6.48/-, 9.63/-, 13.57/-, 16.67/- and 15.41/- (in crores); respectively followed by estimation of commission income on chits @ 5% against @ 4% and also rejecting claim of 55% income from chits as expenditure as restricted to 15% and 20% in assessments and lower appellate orders; respectively.

5. Relevant facts pertaining to the instant common issues are in a very narrow compass. This assessee is admittedly engaged in chits business. There is no dispute that he had not filed any return of income u/s. 139(1) of the Income Tax Act, 1961 ('the Act'). The department carried out the impugned search in his case on 2.9.2010. Learned CIT-DR invited our attention to assessee's son Shri A. Ashok Simha Reddy's statement not only alleged the corresponding difference(s) in turnover(s) but also making

disclosure for the commission income thereupon @ 5% (supra). The assessee appears to have filed detailed reply(ies) dt.25.03.2013 giving the total turnover qua chit options (supra) giving rise to 4% as income only. We find from a combined perusal of the assessment orders in all these assessment years that the Assessing Officer went by the assessee son's statement(s) allegedly disclosing turnovers much higher than those declared (supra) as well as commission @ 5%. He partly allowed the assessee's claim of 15% expenditure on the commission income than that claimed @ 55% in these assessment years.

6. Learned CIT(A) has affirmed the assessment findings but enhanced the commission expenditure relief from 15% to 20% only. All this leaves the assessee aggrieved.

7. We have given our thoughtful consideration to rival pleadings qua the instant three issues. The assessee's case before us is that his explanation on 25.3.2013 had rightly declared the year-wise turnovers as well as commission income @ 4% followed by commission expenditure claim @ 55%. The Revenue's case, on the other hand, goes by the

assessments' reasoning that the assessee's son statement(s) had duly admitted that the turnover involving from figure in issue as well as 5% commission income thereupon. Learned CIT-DR invited our attention to the Revenue's paper book running into 22 pages comprising of assessee son's statement(supra) dt.2.9.2010 and 14.9.2010 as well as hon'ble jurisdictional high court decision in (2014) 362 ITR 13 (AP) Karmex Micro Systems (India) Limited Vs. DCIT that such an addition based on voluntary statement ought to be treated as foundation addition of unexplained income or expenditure; as the case may be.

8. We have given our thoughtful consideration to rival pleadings in above terms and find no reason to express our agreement with the impugned three folded additions of estimated turnover commission income element thereupon and expenditure, in entirety. We have ourselves perused assessee son's alleged statements wherein there is no supportive material at all which was found and seized during the course of search. The CBDT twin circulars dt.10.03.2003 and 18.12.2014 make it clear that no

significance is to be given to such a bald section 132(4) statement in absence of any corroborative evidence. The Revenue itself is very fair before us that the assessee had not maintained any books of account as well. We thus hold that the impugned first and foremost turnover addition deserves to be deleted in all these assessment years for this precise reason alone. Ordered accordingly. The assessee succeeds in his corresponding grounds to this effect.

9. Next comes the commission income estimation and expenditure aspect(s) in assessee's chits business (supra). We notice that neither party has justified their respective estimation in favour of their pleadings. The fact also remains that there is no market comparables before us. We thus estimate assessee's commission element @ 4.5% than 5% and expenditure @ 25% as against 20% in CIT(A)'s orders; respectively with a rider that the same shall not be treated as a precedent in any other case. The assessee's second and third substantive grievances in all these appeals are partly allowed in foregoing terms. Necessary computation shall follow as per law.

No other argument or ground has been pressed before us during the course of hearing.

10. These assessee's appeals 804 to 810/Hyd/2015 are partly allowed and Revenue's cross appeal 777/Hyd/2015 in Assessment Year 2009-10 is dismissed in above terms. A copy of this common order be placed in the respective files.

*Order pronounced in the open court on 22nd July, 2021.*

Sd/-

**(L.P. SAHU)**  
Accountant Member

Sd/-

**(S.S. GODARA)**  
Judicial Member

Hyderabad, Dt.22.07.2021.

\* Reddy gp

Copy to :

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2.	DCIT/ACIT, Central Circle 3(1), Hyderabad.
3.	C I T(Central), Hyderabad.
4.	CIT(Appeals)-XI, Hyderabad.
5.	DR, ITAT, Hyderabad.
6.	Guard File.

By Order

Sr. Pvt. Secretary, ITAT, Hyderabad.