



For Assessee: None  
For Revenue: Shri Y V S T Sai, CIT, D.R.

Date of Hearing : 27/09/2021  
Date of Pronouncement : 20/10/2021

## **ORDER**

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

The instant batch of seven appeals pertains to a single assessee Sri Srinivasa Chakravarthi Raju Gokaraju. The assessee's three appeals ITA 869 to 872/Hyd/17 along with Revenue's Cross appeals in former three of them; as the case may be, arise against CIT(A)-4, Hyderabad's separate orders all dated 30<sup>th</sup> March, 2017 in case nos. 234 to 238/2016-17 (assessment year wise); involving proceedings u/s 143(3) rws 147 of the Income Tax Act, 1961 (the Act for short) for AY 2007-08 to 2009-10 and u/s 143(3) of the Act for AY 2012-13 respectively.

Case called twice. None appears at assessee's behest. Nor anybody has filed his vakalat in the case files till date. We note that these cases are being listed for hearing since 07.11.2017 wherein the assessee had been duly represented by his counsel without vakalat. We therefore proceed ex parte against him keeping in mind the fact that all these appeals are "very old" cases.

2. A combined perusal of these case files indicates that assessee's former appeals ITA 869 to 871/H/17 challenge validity of sec 148/147 proceedings taken recourse by both the lower authorities along with addition(s) in the nature of 'income from other sources' thereby disallowing agricultural income exemption claim u/s 10(1) of the Act to the extent of 50%; involving varying sums; respectively. The assessee's sole substantive grievance in last appeal ITA 872/Hyd/17 for AY 2012-13 raises sole substantive grievance of

agricultural income being treated as 'income from other sources' after disallowing sec10(1) exemption in tune with the earlier three assessment years.

3. The Revenue's identical sole substantive grievance in all three cross appeals ITA 1045 to 1047/H/17 seeks to reverse the CIT(A)'s action deleting sec.68/69 unexplained cash credits addition(s) involving varying sums after admitting additional evidence in contravention of Rule 46A of the Income Tax Rules; respectively.

4. We proceed to deal with the assessee's former legal ground in AY 2007-08 to 2009-10. There is hardly any dispute that he had not filed his regular return despite having made the impugned investments.. This made the Assessing officer to form reasons to believe that his taxable income had escaped assessment regarding the foregoing unexplained investments as well as alleged bogus agricultural income He thereafter set into motion sec.148/147 mechanism and framed all the three consequential assessments herein making the twin unexplained cash credits as well as bogus agricultural income additions. We find from a combined perusal of assessee's three appeals; and more particularly in light of Assessing officer's re-opening reasons, that he had gone by sufficient tangible material to record the foregoing reasons. We thus find no merit in the assessee's instant identical former substantive ground in AY 2007-08 to 2008-09.

5. Next comes his latter substantive ground in the foregoing three appeals and sole grievance in AY 2012-13 that both the lower authorities have erred in law and on facts in treating his agricultural income; involving varying sums, as 'income from other sources' on approximate method.

5.1. Ld.CIT-DR fails to rebut the clinching fact that there is no discussion even while in the re-assessment or in CIT(A)'s detailed findings considering

the assessee's lends along with the crops sown therein before partly rejecting his sec. 10(1) exemption. We thus accept the assessee's corresponding substantive grounds in all these assessments and restore the instant common issue back to the Assessing officer for his afresh factual verification within three effective opportunities of hearing. The assessee's identical latter substantive grievance in AY 2007-08 and 2009-10 and the sole substantive ground in AY 2012-13 are allowed for statistical purposes. His appeals ITA nos. 869 to 871/H/17 are partly allowed for statistical purposes and last appeal ITA 872/H/17 is allowed for statistical purposes.

6. Next come the Revenue's Cross appeals 1045 to 1047/H/17 seeking to revive sec.68 unexplained cash credits additions ; involving varying sums, for the reason that the CIT(A) had admitted additional evidence in violation of Rule 46A of the Income Tax Rules. We note from a combined perusal of the Assessing officer's re-assessments dated 31.3.2015; and more particularly in para 6, that the assessee had neither offered an explanation nor submitted the corresponding information in support of the investment sum(s) forming subject matter of the impugned addition. The CIT(A)'s detailed discussion has accepted the assessee's identical second substantive ground as under:

*"7. The ground no.s 3 and 4 are with regard to treating the amount of Rs. 12,05,00,000/- representing investment in share capital and share premium amount of Leo Meridian Infrastructure Projects & Hotels Pvt.. Ltd. As the income of the appellant u/s 68 of the Act.*

*7.1. With regard to above grounds, the AO during the course of assessment proceedings, observed as under:*

*As per the information gathered the assessee has made investments to the extent of Rs. 12,05,00,000/- in M/s Leo Meridian Infrastructure Projects & Hotels Pvt Ltd. These investments are from unexplained sources, as the assessee has not disclosed these incomes/investments in his return for the AY 2007-08.*

During the course of re-opened assessment proceedings, the assessee was asked to furnish the details of investments made in M/s Leo Meridian Infrastructure Projects & Hotels Pvt. Ltd., and sources for the same. However, the assessee has failed to furnish the said information till date.

In spite of several opportunities given to the assessee and in view of the impending time barring date i.e., 31<sup>st</sup> March, 2015, a show cause notice was issued to the assessee on 13-03-2015 requiring it to show cause as to why the above unexplained investment made in M/s Leo Meridian Infrastructure Projects & Hotels Pvt. Ltd., by way of share capital/share premium should not be disallowed and added to the income returned, in case of failure to produce the details and sources for the investment made.

Till date, the assessee has neither offered any explanation, nor submitted any information in support of the above investments. Hence in the absence of any material evidence filed on the part of the assessee, the amount of Rs. 12,05,00,000/- is being considered as unexplained investment in share application capital/share premium and the same is treated as unexplained cash credit u/s 68 of the Act and accordingly, the same is added to the total income in the hands of the assessee.

7.2. During the course of appeal proceedings, with regard to above grounds, the appellant submitted as under:

We bring to your kind consideration that the assessee has made the following investments in M/s Leo Meridian Infrastructure Projects & Hotels Pvt. Ltd. in the respective financial years since its inception 2001 till 31-03-2007 as follows:

S.No.	Asst. Year	Share Application Money	Share capital	Share premium	Total
	2001-02	0	82000	0	82000
	2003-04	0	6067000	0	6067000
	2004-05	0	6851000	0	6851000
	2005-06	0	24473000	0	24473000
	2006-07	2987719	908850	9088500	21164719
	2007-08	0	0	0	0

ITA Nos. 869 to 872/Hyd/2017 A.Ys: 2007-08, 2008-09, 2009-10 & 2012-13  
 Shri Srinivasa Chakravarthi Raju Gokaraju vs. Dy.CIT, Circle 16(1)  
 ITA Nos. 1045 to 1047/Hyd/17 ACIT Circle 16(1) vs. Srinivasa Chakravarthi Raju Gokaraju

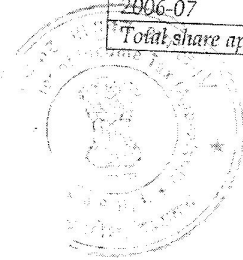
Shri Srinivasa Chakravarthi Raju Gokaraju,  
 A.Y. 2007-08.

Total	0	46361500	9088500	55650000
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The allotment of shares and shares as on 31-03-2007 has been substantiated by producing the copy of the return of allotment in Form No.2 before the Registrar of companies, copies of which enclosed herewith. We are herewith enclosing confirmation letter from Leo Meridian Infrastructures Projects & Hotels P. Ltd. in respect of shares held and share application money as on 31-03-2007. The appellant has received back share application money to the extent of Rs. 29,87,719/- during the F.Y. 2006-07 pertaining to the opening share application money as on 31-03-2006. The assessee has not invested shares in any other companies.

We bring to your kind notice as per the information given by the company M/s Leo Meridian Infrastructure Projects & Hotels Pvt. Ltd. that the company has received share application money and pending allotment as on 31-03-2007 i.e., during the F.Y. 2006-07 from various person/companies as follows.

Particulars	Details	Amount (Rs.)
Opening share application money		74945073
Share application money received during the F.Y. 2006-07		
R. Srinivas	3500	
Gaurav Investments Pvt. Ltd. (AABCG2998M)	33000000	
Haritha Digital Pvt. Ltd. (AABCH3664H)	47500000	
Sai MSR Chit Funds Pvt. Ltd. (AALCS4001P)	30000000	
Wave Info Soft Pvt. Ltd. (AAACW7456M)	28000000	
MJM Medica Pvt. Ltd. (AAFCM3303E)	37640000	
Innoative Information Solutions Pvt. Ltd.(AABCI7883D)	36212122	
Mr. K.Prasanth	6419	
Total Share application money received during the year	212362041	
(The confirmation letters for the above filed before the assessing officer)		
Less: Repaid during the F.Y. 2006-07(Net):		
Anand	1610250	
G.Satti Raju	400000	
G.Srinivasa Chakravarthy Raju	2987719	
Haritha Digital Systems P.Ltd.	5250000	
Tirupathi Raju N	615013	
Sita Rama Raju V	7499059	
Total share application money repaid during the year	18362041	
Add: Net share application money received during the year 2006-07		194000000
Total share application money as on 31-03-2007 as per the		268945073



Balance sheet

2007-08.

We further submit that the said company M/s Leo Meridian Infrastructure Projects & Hotels Pvt. Ltd. has received share application money and allotted shares during the financial year 2006-07 to Prasanth Kolluru (confirmation letter filed before AO) the details is follows:

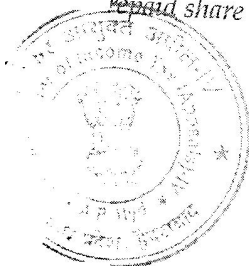
S.No.	Name & Address	Share application money	Share capital	Share Premium	Total
1	Prasanth Kolluru 539, Cogneworth Road, COS COB, CT 06807, USA	30006660			
	Less: Shares Allotted	30000240	1666680	28333560	30000240
		6420			

We bring to your kind consideration that the assessing officer has presumed that investment was made by the appellant in the said company M/s Leo Meridian Infrastructure Projects & Hotels Pvt. Ltd. of Rs. 12,05,00,000/- without finding the factual position and issued show cause notice as undisclosed investment u/s 69 of the I.T.Act.

However, he has made addition in the assessment order in Para 6 as unexplained cash credit u/s 68 in respect of the said investment.

Since the assessee does not have invested during the F.Y. 2006-07 as explained above and confirmed by the company that they have not received investment from the appellant the addition has to be deleted as there is neither undisclosed investment u/s 69 of the I.T.Act nor the unexplained cash credit u/s 68 of the I.T.Act as there is no investment by the appellant and there is no need for corresponding unexplained cash credit.

We further submit that as per the Balance sheet of M/s Leo Meridian Infrastructure Projects & Hotels Pvt. Ltd. and the confirmation letter given by them that the appellant has not invested during the F.Y. 2006-07 rather they have repaid share application money of Rs. 29,87,719/- during the F.Y. 2006-07.



Therefore, the appellant in this regard prays before the Hon'ble CIT(A) to kindly given the necessary directions to the AO to delete the above said additions viz., an amount of Rs. 12,05,00,000/- and oblige.

7.3 I have carefully considered the assessment order and submissions of the appellant. In this case, the Assessing Officer mainly added Rs. 12,05,00,000/- as unexplained investment u/s 68 since the appellant failed to file the explanation or information etc. and further treated the 50% of agricultural income of Rs. 3,68,745/- as income from other sources. During appeal proceedings the details, balance sheet etc., filed by the appellant were verified. For this assessment year the appeal in the company case i.e., M/s Leo Meridian Infrastructure Projects & Hotels Pvt. Ltd., was also decided by me. The opening balance of share application money, share capital and share premium in the company and by the appellant is as under:

	Share money	Application	Share Capital	Share Premium
Opening Balance as on 01.04.2006	7,49,45,072		12,05,55,560	4,49,09,520
Out of above opening balance, pertaining to Sri Srinivasa Chakravarthi Raju	29,87,719		4,65,61,500	90,88,500
Total Additions during the year	24,23,62,282		-	-
Total Repaid during the year by company	1,83,62,041		-	-
Out of above, repaid during the year to Sri Srinivasa Chakravarthi	29,87,719		-	-
Capital introduced by Prasanth Kolluri	3,00,00,240		16,66,680	2,83,33,560
Total As on 31-03-2007 (year end)	26,89,45,073		12,22,22,240	7,32,43,080
Closing balance in company	Nil		4,65,61,500	90,88,500

Therefore, from the above, it is apparent that the appellant invested in the company before 01-04-2006 i.e., before this assessment year. Therefore, during this assessment year, there is no fresh introduction by the appellant in

the company instead there is repayment received. However, the fresh investment was from Sri Prasanth Kolluri and not from the appellant. Therefore,

*ITA Nos. 869 to 872/Hyd/2017 Ays: 2007-08, 2008-09, 2009-10 & 2012-13*

*Shri Srínivasa Chakravarthi Raju Gokaraju vs. Dy.CIT, Circle 16(1)*

*ITA Nos. 1045 to 1047/Hyd/17 ACIT Circle 16(1) vs. Srínivasa Chakravarthi Raju Gokaraju*

*the AO is not correct to add Rs. 12,05,00,000/- which was the opening balance of the appellant during this year as unexplained. Since this amount not introduced during this year therefore, does not pertain to this year, hence, the addition made by the AO deleted. However, the AO is free to verify and to take necessary action in the earlier Ays, if necessary.*

7. It is sufficiently clear from a perusal of the CIT(A)'s foregoing detailed discussion that the assessee's details of the impugned sum(s) forming part of opening capital as on 01.04.2007 and afterwards; as the case may be, had remained unverified from the Assessing officer's end since the same had nowhere been placed on record during the course of all these assessments. We are also very well conscious of the fact that the assessee had not filed any return(s) in the said earlier assessment years so as to prove the corresponding closing opening balances.

We accordingly find merit in Revenue's instant argument alleging violation of Rule 46A of Income tax Rules and deem it proper to restore its identical sole substantive grievance back to the Assessing officer for his afresh adjudication as per law within three effective opportunities of hearing. Ordered accordingly.

Revenue's instant three appeals ITA 1045 to 1047/H/17 are allowed for statistical purposes.

8. To sum up, assessee's appeals ITA 869 to 871/Hyd/2017 along with Revenue's Cross appeals ITA 1045/H/17 to 1047/H/17 are allowed for statistical purposes in above terms. The assessee's last appeal ITA 872/Hyd/17 is allowed for statistical purposes in above terms. Ordered accordingly. A copy of this common order be placed in the respective case files.

Pronounced in Open Court on 20th October, 2021.

**Sd/-**

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

**Sd/-**

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

Dated: the 20th October, 2021.

\* gmV

*ITA Nos. 869 to 872/Hyd/2017 Ays: 2007-08, 2008-09, 2009-10 & 2012-13  
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Copy of the Order forwarded to:

1. Sri Srinivasa Chakravarthi Raju Gokaraju, C/o Sri T. Chaitanya Kumar, Advocate, Flat no. 102, Gauri Apartments, Urdu lane, Himayatnagar, Hyderabad 500 028, Telangana
2. Dy.CIT, Circle 16(1), Hyderabad
3. ACIT, Range - 16, Hyderabad
4. CIT(A)-4, Hyderabad
5. Pr.CIT-4 , Hyderabad
6. DR, ITAT, Hyderabad.
7. Guard File.