

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI  
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।  
Before Shri V. Durga Rao, Judicial Member &  
Shri Manoj Kumar Aggarwal, Accountant Member

आयकर अपील सं./I.T.A. No.479/Chny/2020  
निर्धारण वर्ष/Assessment Year: 2011-12

M/s. Prasanth M Paun (HUF),  
Flat No. 2, Darshan Residency, Door  
No. 18, Medavakkam Tank Road,  
Chennai 600 023.

**[PAN:AAIHP1298R]**

Vs. The Income Tax Officer,  
Non Corporate Ward 10(3),  
Chennai 600 034.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri D. Anand, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Shri AR V Sreenivasan, JCIT  
सुनवाई की तारीख/ Date of hearing : 02.02.2022  
घोषणा की तारीख /Date of Pronouncement : 18.02.2022

**आदेश /O R D E R**

**PER V. DURGA RAO, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 12, Chennai dated 30.09.2019 relevant to the assessment year 2011-12.

2. The appeal filed by the assessee is delayed by 59 days, for which, the assessee has filed a petition in support of an affidavit for condonation of the delay explaining the cause for the delay in filing the appeal and prayed that the delay may be condoned and admitted the

appeal for hearing. Against the submissions made in the affidavit by the assessee, the Id. DR has not raised any serious objection. Consequently, since the assessee was prevented by sufficient cause, the delay of 59 days in filing of the appeal stands condoned and admitted the appeal for adjudication.

3. The only issue involved in this appeal is in respect of addition of ₹.22,00,000/-. In the assessment order passed by the Assessing Officer under section 143(3) r.w.s. 147 of the Income Tax Act, 1961 ["Act" in short], the Assessing Officer has noted on verification of the bank statement that there are certain credits available in the SB account : 1469702 with RBS, Chennai, which are RTGS from Venkata Subba Rao dated 12.04.2010 for ₹.7,00,000/-, RTGS from 910010018970972 dated 04.08.2010 for ₹.30,00,000/- and Trf from 985554 dated 01.11.2010 for ₹.2,00,000/-. The Assessing Officer has issued a letter dated 20.06.2016 to RBS, Chennai to obtain the details relating to the credits of ₹.7,00,000/- and ₹.30,00,000/- and withdrawal of ₹.27,00,000/- on 09.08.2010 available in the assessee's HUF account. Vide letter dated 26.10.2016, the bank clarified that the sum of ₹.30,00,000/- was received from Mr. Godi Pitchai Reddy and of

which, ₹.27,00,000/- was paid towards loan account on 09.08.2010. The credit of ₹.7,00,000/- on 12.04.2010 was made by one Shri Venkata Subba Rao. In order to verify the genuineness of the transaction, the Assessing Officer issued a letter dated 25.07.2016 under section 133(6) of the Act to Shri Godi Pitchai Reddy and acknowledgement received. However, there was no response from Godi Pitchai Reddy. Further a letter dated 25.07.2016 was addressed to Axis Bank, Hyderabad calling for statement of bank account of Shri Godi Pitchai Reddy from 01.04.2010 to 31.03.2011, which revealed the transfer of ₹.30,00,000/- on 0-4.08.2010 to the assessee and receipt of only ₹.15,00,000/- on 07.09.2010. It was informed to the assessee's AR during the course of hearing. Further vide letter received from AR on 08.12.2016, enclosing cash flow statement arriving at a balance of ₹.10,00,000/- as loan borrowed from Shri Godi Pitchai Reddy and that Shri Godi Pitchai Reddy is no more alive and the cash withdrawn from bank on 09.08.2016 was wrongly mentioned as "loan repayment" in the bank statement. The explanations given by assessee's AR and cash flow statement submitted was not satisfactory and accepted by the Assessing Officer, since no confirmation could be obtained from Shri

Godi Pitchai Reddy. On perusal of the bank statements – Axis Bank, Hyderabad and RBS Chennai, the Assessing Officer observed that the assessee had repaid only a sum of ₹.15,00,000/- to Shri Godi Pitchai Reddy out of receipt of ₹.30,00,000/- during the year. Therefore, the Assessing Officer treated the balance of ₹. 15,00,000/- as unexplained credit in the hands of the assessee and brought to tax. So far as ₹.7,00,000/- received from Shri Venkata Subba Rao is concerned, no confirmation has been filed. So, the Assessing Officer treated the same as unexplained credit and brought to tax. On appeal, in the absence of any confirmation, the Id. CIT(A) confirmed both the additions totalling to ₹.22,00,000/- in the hands of the assessee.

4. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In the assessment order, the Assessing Officer has accepted that the amounts have been received through RTGS i.e., banking channel from Shri Gadi Pitchai Reddy, which was also confirmed by the respective banks. Repayment to the extent of ₹.15,00,000/- was also made through banking channel, which was also confirmed by the bank. However, remaining balance of ₹.15,00,000/- was in the hands of the

assessee. In our opinion, once the Assessing Officer has accepted the creditworthiness to the extent of ₹.15,00,000/-, it cannot be said that the creditor has no creditworthiness and not proved. That part, the Assessing Officer has not asked the creditors to prove the creditworthiness, whereas, he has asked only the respective banks obtained the details under section 133(6) of the Act. Under these facts and circumstances, the addition made by the Assessing Officer is not justified and accordingly, the addition made under section 68 of the Act stands deleted.

4.1 So far as credit of ₹.7,00,000/- is concerned, the Assessing Officer has sent a letter dated 20.06.2016 to RBS Chennai under section 133(6) of the Act to obtain the details relating to the credit. Accordingly, vide letter dated 23.06.2016, the Assessing Officer received clarification from RBS, Chennai that the said amount was received on 12.04.2016 from Shri Venkata Subba Rao. Further, the AR of the assessee vide his letter received by the Assessing Officer on 15.07.2016 admitted that the said amount was received as loan from Shri Venkata Subba Rao. However, the Assessing Officer has not asked the creditor to prove the creditworthiness. Thus, the addition

made by the Assessing Officer is not justified and accordingly, the addition made under section 68 of the Act stands deleted.

5. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 18<sup>th</sup> February, 2022 at Chennai.

Sd/-  
(MANOJ KUMAR AGGARWAL)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 18.02.2022

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.