

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "SMC", HYDERABAD

BEFORE SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 17/Hyd/2022
(निर्धारण वर्ष / Assessment Year: 2013-14)

Yedam Delhi Chakravarthy, Vs. Income Tax Officer,
Tirupati Ward-1(1),
[PAN No. ANAPD1666J] Tirupati

अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा / Assessee by: NONE
राजस्व द्वारा / Revenue by: Shri A.P.Babu, DR

सुनवाई की तारीख/Date of hearing: 31/01/2023
घोषणा की तारीख/Pronouncement on: 31/01/2023

आदेश / ORDER

Aggrieved by the order dated 04/03/2020 passed by the learned Commissioner of Income Tax (Appeals)-Tirupati ("Ld. CIT(A)"), in the case of one Yedam Delhi Chakravarthy ("the assessee") for the assessment year 2013-14, assessee preferred this appeal.

2. During the course of assessment proceedings for the assessment year 2013-14, learned Assessing Officer found that the assessee invested a sum of Rs. 1,35,85,000/- along with one Shri Sree Rama Reddy on 08/07/2012 and claims that a sum of Rs. 61 lakhs was obtained by way of loan from as many as eleven persons. On the details furnished by the assessee as to the creditors, learned Assessing Officer caused enquiry and found that the identity of the creditors was not found in the case of five

persons, and in one case, the creditor himself stated that he had no capacity to lend any loan and, in another case, confirmation was not produced. Learned Assessing Officer, however, found that the loan to the tune of Rs. 10 lakhs advanced by one Shri Ramaswamy Naidu alone stands proved and the balance remains un-explained. Following the decision of the Hon'ble jurisdictional High Court in the case of R.B.Mittal Vs. CIT (2000) 246 ITR 283 (AP), wherein it was said that it is incumbent upon the assessee to prove the identity of the creditors and their capacity to advance the money apart from the genuineness of the transaction, which according to the learned Assessing Officer, the assessee failed in this case, learned Assessing Officer made an addition of Rs. 51 lakhs.

3. Aggrieved by such action of the learned Assessing Officer, assessee preferred an appeal before the learned CIT(A) and had taken a plea that the loans were obtained through banking channels and except in case of one M. Siddamma, K. Ravindranath and other creditors are identified and their creditworthiness is also proved.

4. Learned CIT(A) on an appreciation of the material available before him found that the factual position remained the same as it was before the learned Assessing Officer and the assessee did not do anything more to establish the transactions by furnishing relevant and verifiable details. According to the learned CIT(A), mere receipt of loan amount through banking channels will not justify the loan transaction covering the genuineness and creditworthiness. Apart from this, learned CIT(A) further found that some of the creditors denied to have advanced any loan to the assessee. In these circumstances, learned CIT(A) found no reason to interfere with the assessment order and accordingly dismissed the appeal.

5. Assessee is, therefore, before me in this appeal, stating that he has filed all the documentary evidence such as confirmation letters from

creditors and other relevant documents, but the authorities below failed to consider the same.

6. Today when the matter is called, there is no representation for the assessee. It could be seen from the record that the notices sent to the assessee fixing the date of hearing on 02/06/2022 was served on him personally, but, subsequently, all the notices sent to the assessee except the one dated 09/08/2022 was returned served through post. But the assessee does not enter any appearance either in person or through any representative. Further, this appeal is filed with a delay of 628 (six two eight) days and in spite of the above objection, the assessee failed to comply with the same. Fee is also not paid properly and the assessee is not available for compliance with the Registry objections also. When once the assessee having been served with the notices of dates of hearing, failed to appear before the Tribunal and co-operate with the disposal of appeal on merits in spite of repeated adjournments, I find no option to proceed ex parte and to decide the appeal basing the material available on record.

7. It could be seen from the record that there is a delay of 628 days in preferring this appeal. Assessee does not come forward with any reason for this delay. However, I take judicial notice of the prevailing pandemic at relevant time. As a matter of fact, though the learned DR does not concede to condone the delay, there is no denial of the fact that the Hon'ble Supreme Court in the Suo Motu proceedings in the case of M.A.No. 21/2022 in M.A.No. 665/2021 in SMW(C) No.3 of 2020 by order dated 10/01/2022 held that in cases, where the limitation would have expired during the period between 15/03/2020 and 28/02/2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01/03/2022, and in the event of actual balance period of limitation remaining with effect from 01/03/2022 is greater than 90 days, that longer period shall apply. I, therefore, now shall proceed to hear the appeal condoning the delay.

8. Learned DR submitted that the assessment order is self-explanatory and the learned Assessing Officer set out the result of the enquiries about the creditors and the loans advanced by them, in paragraph No. 4 of the assessment order. Assessee is unable to rebut any of these findings returned by the learned Assessing Officer. Even before the learned CIT(A) also he failed to do so. Hence, he submitted that the assessee has no case at all and that is the reason why he is not turning up and since there are no merits in the appeal, the same is liable to be dismissed.

9. I have gone through the record in the light of the submissions made by the learned DR. Assessment order reads that the assessee furnished the names of ten persons on two occasions and in respect of four persons addresses and amounts of loans were not furnished. Learned Assessing Officer conducted enquiry in respect of these ten persons. Learned Assessing Officer noted that in respect of K. Thulasiram, K. Srinivasulu Naidu, K. Ravindranath, P. Chandra and one G. Hemanth Reddy, the identity of the creditors is not proved. One M. Ananda did not have any capacity to lend the amounts since he was working on contract basis. In respect of one Siddamma, the assessee himself has stated that she is no more and whereabouts of her son are not known. Learned Assessing Officer accepted the loan of Rs. 10 lakhs advanced by one V. Ramaswamy Naidu. Learned Assessing Officer did not accept the loan said to have been advanced by one Ramakrishna, since the particulars were not furnished. This tabulated information at paragraph No. 4 of the assessment order clearly shows that assessee failed to furnish the particulars of K. Ravindranath, P. Chandra, Siddamma, G. Hemanth Reddy and C. Ramakrishna for verification. It is only one Ramasway Naidu that appeared and proved the loan.

10. This being the factual position, learned Assessing Officer accepted the loan said to have been advanced by Ramaswamy Naidu, and rightly so, and rejected the contentions of the assessee in respect of others. The

impugned order clearly establishes that the assessee did not do anything more than what he did before the learned Assessing Officer and, therefore, there was no reason for the learned CIT(A) to interfere with the findings returned by the learned Assessing Officer. It is so equally before me also. The assessee does not appear either in person or through his counsel to rebut any of the findings of the learned Assessing Officer or to establish his entitlement for his claim. In these circumstances, I do not find any reason to accept the contentions of the assessee raised in the grounds of appeal that the authorities below failed to consider the documentary evidence produced by him. Appeal, therefore, fails and the same is accordingly liable to be dismissed.

11. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on this the 31st day of January, 2023.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 31/01/2023

TNMM

Copy forwarded to:

1. Yedam Delhi Chakravarthy, 6-12-18, KB Layout, Tirupati.
2. Income Tax Officer, Ward-1(1), Tirupati.
3. CIT(A)-Tirupati.
4. Pr.CIT, Tirupati.
5. DR, ITAT, Hyderabad.
6. GUARD FILE

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ITAT, HYDERABAD