

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

BEFORE  
SHRI RAMA KANTA PANDA, ACCOUNTANT MEMBER  
&  
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 810/Hyd/2018  
(निर्धारण वर्ष / Assessment Year: 2013-14)

Income Tax Officer, Vs. M/s. Sri Vani Venkateswara  
Ward-3, Constructions,  
Kadapa Rayachoty  
[PAN No. ABXFS3921L]  
अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: NONE  
राजस्व द्वारा/Revenue by: Shri Kumar Aditya, DR

सुनवाई की तारीख/Date of hearing: 28/03/2023  
घोषणा की तारीख/Pronouncement on: 18/04/2023

आदेश / ORDER

**PER K. NARASIMHA CHARY, JM:**

Aggrieved by the order dated 09/02/2018 passed by the learned Commissioner of Income Tax (Appeals)-Kurnool ("Ld. CIT(A)"), in the case of M/s. Sri Vani Venkateswara Constructions ("the assessee") for the assessment year 2013-14, Revenue preferred this appeal.

2. Assessee is a real estate dealer. The disputed addition in respect of the assessment year 2013-14 relates to the trade advances shown in the Balance Sheet to the tune of Rs. 3,84,17,000/- as sundry creditors for trade. According to the learned Assessing Officer when asked, except filing a simple list of sundry creditors for trade advances, the assessee did not file any detail like postal address of the sundry creditors for further

verification. Learned Assessing Officer therefore, added such amount treating it as not genuine.

3. During the first appeal, the assessee submitted additional information before the learned CIT(A). Learned CIT(A) obtained remand report from the learned Assessing Officer. Subsequently, learned CIT(A) recorded that in his remand report the learned Assessing Officer stated that an amount of Rs. 1,40,20,000/- relates to the financial year 2011-12, relevant to the assessment year 2012-13 in respect of which year, the assessment was concluded by order dated 31/03/2015 under section 143(3) of the Income Tax Act, 1961 ('the Act') by making an addition of Rs. 5 lakhs whereas in respect of the balance trade advances of Rs. 2,43,97,000/- relevant for assessment year 2013-14, the learned Assessing Officer did not offer any adverse remarks. Learned CIT(A), therefore, directed the learned Assessing Officer to delete the entire addition of Rs. 3,84,17,000/-.

4. Revenue is in this appeal contending that the learned CIT(A) did not take a plausible view by reading the remand report and as a matter of fact, the learned Assessing Officer offered comments by tabulating the statements made by various persons as to their sources of monies to advance to the assessee. Revenue is vehemently contending that while appreciating the remarks offered by the learned Assessing Officer, the learned CIT(A) failed to have regard to the common course of natural events, human conduct and public and private business, in their relation to the facts of this particular case.

5. Assessee did not enter appearance before us but filed a written submissions stating that the creditors were physically produced before the learned Assessing Officer, their statements were recorded as to the genuineness of the transactions and their creditworthiness. It is further stated that only on being satisfied with this statements, the learned CIT(A) granted relief to the assessee and, therefore, the Revenue cannot take any plea contrary now.

6. We have gone through the record in the light of the submissions made on either side. Insofar as the sum of Rs. 1,40,20,000/- relating to the assessment year 2012-13 is concerned, the things are clear and we accept the same. However, in respect of the balance of Rs. 2,43,97,000/-,

the Revenue is disputing the observations of the learned CIT(A) or the inference drawn by the learned CIT(A), basing on the remand report. We deem it just and necessary to refer to the remand report.

7. For the sake of ready reference, we deem it just and necessary to extract hereunder the relevant portions of the remand report for proper appreciation of the contentions raised by the Revenue,-

*“2. In this connection, this office has issued summons under section 131 of the Income Tax Act, 1961, to all the above stated persons relating to financial year 2012-13 relevant to the assessment year 2013-14. The Sworn statements are recorded from various persons from whom loans were borrowed by the assessee. The list of persons towards advances received and sources of advances are enclosed as per Annexure. It is submitted that sworn statements recorded from the persons along with confirmation letters an identity copies of aadhar cards are also enclosed herewith.*

*3. It is also submitted that for the Assessment Year 2012-13, the case was selected for scrutiny through CASS, scrutiny assessment has been completed on 13-01-2015 by the then Income Tax Officer, Ward-1, Kadapa wherein addition of Rs. 5,00,000/- was made to the returned income on agreed basis. It is also mentioned that at the time of scrutiny for AY 2012-13, the A.R. of the assessee has submitted required information called for and also details of sundry creditors for the Financial Year 2011-12 relevant to the assessment year 2012-13 amounting to Rs. 2,31,00,000/-, a copy of which is enclosed herewith for kind perusal. It is also again mentioned that the outstanding liabilities of Rs. 1,40,20,000/- as on 31-03-2013 relating to Financial Year 2011-12 relevant to the assessment year 2012-13 were already called for at the time of scrutiny as stated above.*

*It is also submitted that copy of assessment order completed the then ITO, Ward-3, Kadapa for AY 2012-13 is enclosed herewith for kind perusal of the Commissioner of Income Tax (Appeals), Kurnool.*

*The delay in submission of remand report on the above case may kindly be condoned.*

*This is submitted for the kind perusal of the Commissioner of Income Tax (Appeals), Kurnool.”*

8. It could clearly be seen from the above report of the learned Assessing Officer, learned Assessing Officer nowhere adverted to the

advances received during the financial year 2012-13 relevant for the assessment year 2013-14. The entire remand report is silent on this aspect. Learned Assessing Officer, however, on examination of the alleged trade creditors, tabulated his remarks in respect of the advances during the financial year 2012-13 by way of annexure.

9. In the annexure, it could be seen that about twenty persons advanced a sum of Rs. 5 lakhs each on various dates whereas one person advanced Rs. 5.8 lakhs and another Rs. 4.5 lakhs. Out of these twenty two persons, most of the people are running tiffin centres, vegetable and fruit vending, barbar shop and some petty businesses like saree business and tailoring shop. These people stated that out of the accumulated savings, they lent the sums to the assessee. The report of the learned Assessing Officer does not indicate that there is any verifiability of the any of the facts stated by these persons. As a matter of fact, as could be seen from the remand report the learned Assessing Officer did not comment at all on the statements made by these persons.

10. In these circumstances, there is no basis for the learned CIT(A) to conclude that in respect of Rs. 2,43,97,000/-, the learned Assessing Officer reported nothing adverse. The learned CIT(A) should have appreciated the facts emanating from the remand proceedings to reach a plausible conclusion. On a careful perusal of the remand report and its annexures, we are of the considered opinion that there is no basis for the learned CIT(A)'s conclusion that the statements made by various persons in support of their source of advances made to the assessee. At the same time, we are of the considered opinion that there is no basis for the assessee now to contend that there is satisfaction recorded by the learned CIT(A) to grant relief to the assessee.

11. The facts stated in the sworn statement of the creditors and other material needs verification before either accepting or rejecting the same. No such exercise is done by the authorities below. Hence, we are of the considered opinion that the impugned order has to be set aside and the issue needs to be restored to the file of the learned Assessing Officer for verification of the identity and creditworthiness of creditors and genuineness of the transactions in respect of the sum of Rs. 2,43,97,000/-

which according to the learned Assessing Officer relates to the assessment year 2013-14.

12. With this view of the matter, we restore the issue relating to the credit advances to the tune of Rs. 2,43,97,000/- to the file of learned Assessing Officer for fresh consideration according to law.

13. In the result, appeal is treated as allowed for statistical purposes.

Order pronounced in the open court on this the 18<sup>th</sup> day of April, 2023.

Sd/-

**(RAMA KANTA PANDA)**  
**ACCOUNTANT MEMBER**

Sd/-

**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

Hyderabad,

Dated: 18/04/2023

TNMM

Copy forwarded to:

1. Income Tax Officer, Ward-3, Kadapa.
2. M/s. Sri Vani Venkateswara Constructions, D.No. 53/199/16,  
Lakshmipuram, Galiveedu Road, Rayachoty.
3. Pr.CIT, Kurnool.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ASSISTANT REGISTRAR  
ITAT, HYDERABAD