

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

BEFORE

**SHRI R.K. PANDA, VICE PRESIDENT
AND
SHRI LALIET KUMAR, JUDICIAL MEMBER**

आ.अपी.सं / **ITA Nos.206 and 207/Hyd/2023**
(निर्धारण वर्ष / Assessment Year: 2019-20)

Deputy Commissioner of Income Tax, Central Circle – 1(3), Hyderabad.	Vs.	Chandrashekar Reddy G. R/o.Hyderabad. PAN: AIZPR6235K.
अपीलार्थी / Assessee		प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri K.C. Devdas, C.A.
राजस्व द्वारा/Revenue by: Shri K. Madhusudan, CIT-DR

सुनवाई की तारीख/Date of hearing: 13.09.2023
घोषणा की तारीख/Pronouncement on: 21.09.2023

ORDER

PER LALIET KUMAR, J.M.

The captioned appeals are filed by the Revenue feeling aggrieved by the separate orders of Commissioner of Income Tax (Appeals) – 11, dt.20.01.2023 invoking proceedings under sections 143(3) and 271D of the Income Tax Act, 1961 (in short, “the Act”), respectively.

2. The grounds raised by the assessee in ITA No.206/Hyd/2023 reads as under :

“1. The Ld. CIT(Appeals erred both in law and on facts of the case in granting relief to the assessee.

2. The CIT(A) ought to have appreciated the fact that the seized cash of Rs. 1 crore was received by the assessee not as a owner of the land but as a consenting party mentioned in the MoU dated 10.01.2019.

3. The Ld. CIT(Appeals ought to have appreciated that the assessee's mother was not having full and clear title over the land under consideration and that the assessee was also having certain rights over the said land as evidenced by the MoU dated 10.01.2019 wherein the assessee was made a consenting party by the purchasers to avoid future litigation.

4. The CIT(A) erred in concluding that the cash of Rs.1 crore received by the assessee is exempt from taxation when the assessee was not the owner of the land under consideration.

5. The CIT(A) erred in accepting that there is nexus of cash found with the assessee and cash consideration received on sale of land by his mother when the assessee himself admitted u/s 132(4) of the Act, that the cash found with him was unaccounted.”

3. The grounds raised by the assessee in ITA No.207/Hyd/2023 reads as under :

“1. The ld.CIT(A) erred both in law and on facts of the case in granting relief to the assessee.

2. The CIT(A) ought to have appreciated the fact that the seized cash of Rs. 1 crore was received by the assessee not as a owner of the land but as a consenting party in relation to transfer of the land as mentioned in the MoU dated 10.01.2019 and hence the said amount is covered under the definition of "specified sum" u/s 269SS.

3. The .Ld. CIT(Appeals ought to have appreciated that the assessee's mother was not having full and clear title over the land under consideration and that the assessee was also having certain rights over the said land as evidenced by the MoU dated 10.01.2019 wherein the assessee was made a consenting party by the purchasers to avoid future litigation.

4. The CIT(A) erred in concluding that the dash of Rs.1 crore received by the assessee belongs to his mother when the said amount was received by the assessee in his own-right as a consenting party to the sale transaction thereby violating the provisions of Section 269SS of the Act.”

3.1 As the facts and issues in both the appeals are same, we are reproducing the facts of appeal in ITA No.206/Hyd/2022 for the sake of brevity.

4. The brief facts of the case are that the assessee is an individual. A Search and Seizure operation was conducted in the premises of assessee along with G. Neelamma and others on 13.02.2019. Consequent upon the search and seizure operation, the case was centralized to ACIT, CC-1(3), Hyderabad. The case has been taken up for scrutiny for the AY-2019-20. Accordingly, a notice u/s. 142(1) of the LT. Act was issued on 29.09.2020 to the assessee to file the return of Income for the assessment year under consideration. The assessee has filed his Return of Income for the Asst. Year 2019-20 on 01.03.2021 by admitting total income of Rs. NIL. Further, notices u/s. 143(2) of the Act dated 21.04.2021 was issued to the assessee calling for information. In response to the notices, the assessee has furnished required information from time to time. The assessee and his family members have received total sale consideration of Rs.1,53,63,000/- for the sale of Agricultural land admeasuring Ac. 4-05 Guntas situated at Pooduru village, Medchal (M), Medchal- Malkajgiri, Ranga Reddy district. Out of the total sale consideration, an amount of Rs. 1,00,00,000/- was received in cash and balance amount was received vide cheques in the name of family members. The Assessing Officer considering the reply and the admission made by the assessee during the course of search and post search enquiry and based on the statement recorded during the course of assessment proceedings u/s 131 of the Act had made addition of Rs.1,00,65,000/- in the hands of

the assessee. Accordingly, the Assessing Officer completed the assessment.

5. Feeling aggrieved with the orders passed by the assessing officer, assessee filed the captioned appeals before the Id.CIT(A), who partly allowed the appeal of assessee in ITA No.206/Hyd/2023. In fact, the Id.CIT(A) had deleted the major additions of Rs.1,00,00,000/- in the hands of assessee out of total addition of Rs.1,00,65,000/-.

6. Aggrieved with the orders of Id.CIT(A), Revenue is now in appeal before us on the grounds mentioned hereinabove.

7. Before us, Id. DR had drawn our attention to the assessment order, wherein the Assessing Officer at Paragraphs 4 to 4.4. held as under :

“4.1. During the statement recorded u/s. 131, dated 18.02.2019, assessee stated to have received a total consideration of Rs. 1,53,63,000/- towards sale of land. Further, it was stated that, put pf above sale consideration, an amount of Rs. 1,00,00,000/- was received in cash and balance of Rs. 53,63,000/- was received by way of cheque on behalf of ail the family members. The assessee admitted an amount of Rs. 1,00,00,000/- as undisclosed income for A. Y.2019-20.

4.2. With respect to the balance amount of Rs. 65,000/-, found during the course of search, the assessee has not furnished any evidence with respect to the sources. The assessee could not justified the sources for the total cash of Rs. 1,00,65,000/- found at his residence even during the course of assessment proceedings.

3. In the absence of any cogent verifiable documentary evidence, the amount of Rs. 1,00,65,000/- remains' unexplained. Thus, the total amount of Rs. 1,00,65,000/- of cash found at the residence of the assessee Sri Chandrasekhar Reddy remains unexplained.

4.4. In the light of these facts, the entire amount of Rs. 1,00,65,000/- is treated as his unexplained income u/s. 69A of the Act and the same is added to the income returned.”

7.1. Before us, Ld. DR submitted that once the assessee was found to be in possession of Rs.1,00,00,000/- during the course of search, and thereafter, the assessee has admitted the said amount belonged to him, therefore, the Assessing Officer was

right in making the addition in the hands of the assessee. It was further contended that ld.CIT(A) had wrongly deleted the addition in the hands of the assessee and the findings of the ld.CIT(A) are perverse. Ld. DR also contended that the reliance of the ld.CIT(A) on Memorandum of Understanding cannot be accepted as the assessee has not filed the said document along with the sale deed before the Assessing Officer. Ld. DR also argued that ld.CIT(A) had further erred in relying on the assessment order passed in the case of the mother of the assessee for A.Y. 2019-20 and also committed a mistake in concluding that the land sold by virtue of sale deed dated 10.01.2019 was an agricultural land. The ld. DR further submitted that just because the name of the assessee has been mentioned as consenting party will not diminish his right as a owner and he will continue to be the owner of property by virtue of inheritance after the death of his father who happens to be the owner of the property along with the mother and others. Hence, for all the purposes, the assessee continued to be the co-owner of the property and was having right to receive the amount after sale of agricultural land.

7.2. Alternatively, it was submitted by the ld.DR that the presumption is against the assessee as the amount of Rs.90,00,000/- was found during the course of search from the bed room of the assessee. The ld.DR drawn our attention to the statement of the assessee recorded during the search and also relied upon Section 292C of the Act.

8. Per contra, ld. AR had submitted that in the present case, the agreement of sale dt.21.11.2018, MOU dt.10.01.2019 and the sale deed dt.10.01.2019 clearly show that one Neelima was the owner of the property as she had sold agricultural land along with the assessee and others, as consenting parties, and received a sum of Rs.1,00,00,000/- in cash and Rs.53,63,000/-

by way of cheque, as a sale consideration towards the sale of agricultural land. It was submitted that the Revenue cannot blow hot and cold as on the one hand, the Revenue is claiming that the property is co-owned by the assessee along with other legal heirs with the mother namely, Neelima and on the other hand, the Revenue is claiming that the assessee solely received the cash after sale of agricultural land. It was submitted that when the land sold by various persons, as per the claim of Revenue, then the cash would belong to each of them and would not be owned by the assessee singularly. Further, it was submitted that in the agreement of sale dt.21.11.2018, it was clearly mentioned at page 19 as under :

“... ”

As such the vendors 1 to 5 succeeded to the schedule land and are became the absolute owners, pattadars and possessors of agricultural land admeasuring Ac.3-05 gts., in sy.no.363/2/1/1 and Ac.3-00 gts., in sy. Nos.363/2/2, situated at Pudoor Village, Medchal Mandal, Medchal-Malkajiri District, formerly Ranga Reddy District, and an extent of land admeasuring Acs.1-00 gts in Sy.Nos.363/2 has to be mutated in the Revenue Records on the name of vendors 1 to 5 within 30 days from the date of execution of this sale agreement.

WHEREAS the vendors 1 to 5, jointly offered to sell the schedule mentioned agricultural land to the extent of Acs.7-00 gts in sy.nos. 363/2/1, 363/2/2 and which will have to be mutated alnd to the extent of Acs.1-00 gts. Land in sy.no.363/2, situated at Pudoor Village, Medchal Mandal, Medchal-Malkajiri District, on their names, for a sale consideration of Rs.1,29,00,000/- (Rupees One Crore Twenty Nine Lakhs only) per Acre, and the Purchaser has this day paid an amount of rs.1,54,00,000/- (Rupees One Crore Fifty Four Lakhs only) in cash (Rs.30,80,000/- each vendor), and an amount of Rs.50,00,000/- (Rupees Fifty Lakhs only) paid (Rs.10,00,000/- each Vendor) vide Five cheques on the names of one to five vendors bearing nos.1) 373467, dt.21.11.2018, 2) 373468 dt.21.11.2018, 3) 373470 dated 31.11.2018, 4) 373471 dated 21.11.2018 and 5) 373472 dt.21.11.2018, respectively, all cheques drawn on State Bank of India, Sanjeeva Reddy Nagar Branch, Hyderabad – 500038, which was received and acknowledged by the vendors 1 to 5 towards advance sale consideration and earnest money which was charge on the property. The total land cost may varied as per the physical measurements of the land, and after deducting the road width about 20 Ft from the main road to the schedule mentioned property.”

8.1. Ld. AR further submitted that the statement recorded u/s 132 and 131 of the Act cannot be made basis for making the addition in the hands of the assessee only. It was submitted that once the registered document in the year of sale deed does not show any receipt of 'on money' out side of sale agreement and there is no admission by either the purchaser or seller regarding 'on money' received by the third party, who has no relation with the money cannot form basis of making addition in the hands of the assessee. He had also drawn our attention to the statement recorded during the course of search as well as post search enquiry whether the assessee though had owned the amount found during the course of search but during the course of search, the said amount was not recovered from the possession of the assessee.

9. We have heard the rival submissions and perused the material on record. In the present case, the ld.CIT(A) had deleted the addition in the hands of the assessee for the following reasons :

- a) The MOU dt.10.01.2019 for the sale of Ac.405 gts for a consideration of Rs.1,53,63,000/-. The above consideration was paid in cash of Rs.1,00,00,000/- and cheque of Rs.53,63,000/-.
- b) The sale deed executed on 10.01.2019 was executed by G. Neelamma and others as consenting parties for the land admeasuring Ac.3.00 gts, in sy.no.363/2/2 for a consideration of Rs.39,00,000/-.
- c) The another sale deed dt.10.01.2019 executed by G. Neelamma and others as consenting parties for the

land admeasuring Ac.1.05 gts, in sy.no.363/2/1/1 for a consideration of Rs.14,63,000/-.

- d) Both the sale deeds do not mention about the payment of cash by the purchaser to Neelima and others.
- e) Since the name of G. Neelamma was appearing in the SRO Register, therefore, she is the owner of the property and the capital gain arrived if any will be in the hands of the mother of the assessee namely, Neelima.
- f) The scrutiny assessment had taken place in the case of mother of the assessee namely, G. Neelamma. During the said proceedings, the said G. Neelamma produced the certificate from Tahsildar certifying that the land is situated at beyond ten kilometers from the nearest Municipalities. The Assessing Officer of said G. Neelamma had accepted the land being agricultural land and would not fall under the definition of 'capital asset'.
- g) As per Id.CIT(A), the land in question was held to be 'an agricultural land' by the Assessing Officer, therefore, the consideration received in cash would be exempted from taxation.
- h) As per Id.CIT(A), the mother continued to be the owner of the land and therefore, the consideration received would belong to her and would fall within the 'exempt' category.
- i) The Id.CIT(A) further held that even if it is assumed that the consideration was received by the assessee, then also it would be exempt under the Income Tax Act being the gift received from a relative.

10. In our considered opinion the order was passed by the Id.CIT(A) based on the following documents i.e., MOU dt.10.01.2019, Sale Deed dt.10.01.2019, assessment order dt.09.06.2021 passed in the case of G. Neelamma, mother of the assessee, the Certificate issued by the Tahsildar etc. Most of these documents were not confronted to the Assessing Officer and therefore, the order passed by the Id.CIT(A) is liable to be set aside on this ground alone.

11. However, we find that the order passed by the Id.CIT(A) is otherwise also perverse and contrary to law. For the purpose of treating any land as agricultural land, not only the certificate from the Tahsildar is required but the other requirement like continuance carrying out of the agricultural operations for two years are also required. In the present case, the assessee has not filed any documents before us to show that the land was an agricultural land in nature and is continuously being used for the purpose of agriculture for more than two years. Therefore, the finding of the Id.CIT(A) is contrary to law.

12. In our opinion, the MOU dt.10.01.2019 is a self-serving document and cannot be relied upon. In fact, the assessee in the statement recorded during the search and post search enquiry admitted to have received Rs.1,00,00,000/- in cash along with others who had also received a similar amount in cash. For the above said purposes, we may fruitfully reproduce the relevant question and answers on this point.

“Q.8 Please explain the sale transaction held by your mother Smt. Neelamma with regard to sale of Ac.4.05 Guntas land to Gorinta Radhá Krishna and Sri. Gorinta Ramalinga Raju.

Ans. Initially, we have executed an agreement of sale on 21-11-2018 for sale of Ao.7.05 guntas in favour of Smt. Gorinta Vijaya Lakshmi w/o Sri Gorinta Ramalinga Raju R/o Plot No.108, Siddhartha Nagar, Behind Vengal Rao Nagar, Hyderabad for Rs.1,29,00,000/- per acre. However, this agreement got cancelled as my step brothers Sri Gangireddy Prasanth Reddy and Gangireddy Dharmender Reddy refused to sign on the Agreement of Sale and myself, my brother G.Bhaskar Reddy and my mother G.Neelamma have signed.

As my step brothers refused to sign on the above agreement, my mother orally made her entire Ac.7-05 guntas partitioned as under:

- i) G. Chandrasekar Reddy, myself -Ac.1-20 guntas*
- ii) G. Bhaskar Reddy my brother - Ac.1-20 guntas*
- iii) G.Prasanth Reddy, step brother—Ac.1-20guntas*
- iv) G.Dharmender Reddy, step brother - Ac: 120 guntas*
- v) P.Praveena Rani, sister — Ac.0-20 guntas*
- vi) Y.Pradeepa, sister - Ac.0-20 guntas.*
- vii) G.Neelamma, mother - Ac.0.05 guntas.*

Accordingly we myself, my brother G.Bhaskar Reddy through my mother entered into an agreement of sale with Shri Gorantal Radhakrishna Chaitanya s/o G.Ramalinga Raju for Ac.3-00 guntas and Sri G.Ramalinga Raj for Ac.1-05 guntas at the rate of Rs.1,29,00,000/- per acre. The copy of agreement of sale is not available with me.

My brother Sri G.Dharmender Reddy also separately entered into an agreement of sale on 09-01-2019 in favour of Sri Gorinta Radhakrishna Chaitanya S/o g.Ramalinga Raju towards sale of his share Ac1-20 guntas at the rate of Rs.1,29,00,000/- per acre as his share of land got into his possession through my step mother who expired.

However, my mother Smt.G.Neelamma executed sale deed on 10.01.2019. vide document No.617/2019 towards sale of Ic.3.00 guntas in favour of. Sri. G.Ramalinga Raju and document No.616/2019 towards sale of Ac.1-05 guntas in favour of Sri G.Rorinta 'Radhakrishna Chaitanya s/o G.Ramalinga Raju.

Myself, my brother G.Bhaskar Reddy and' my. step brother G. Dharmender Reddy also signed in the sale deeds as concerting parties.

However., in the sale, deeds it is mentioned Rs.39,00,000/- and Rs. 14,63,000/-respectively i.e Rs.13,00,000/- per acre. through we have received actual consideration of Rs.1 .29,00,000/- per acre i.e. total of Rs.5,32,12,500/-. The buyer has paid us Rs.53,63,000/- through. cheques and remaining balance of Rs.4,78,49,500/- through cash on various dates.

With regard to the Agreement of Sale dated 09-01-201'9 executed by my step brother Sri. G.Dharmender Reddy towards sale of Ac. 1-20, guntas in favour of Sri Gorinta Radhakrishna Chaitanya s/o G.Rarnalinga Raju r/o Plot No.108, Siddhartha Nagar, Hyderabad-500038 at the rate of Rs.1,2900,000/- per acre, he has received Rs.30,50,000/- by way of cash and Rs.19,50,000/- by way of cheque and for the remaining balance of Rs.1,43,50,000/ the buyer agreed.to pay at the time of execution of sale deed.

Q.9 As per the above, you have received Rs.5,32,12,500/- towards sale of Ac.4-05 guntas. Please explain where do you keep this cash.

Ans. Out of the sale consideration of Rs.5,32,12,500/-, the buyer has given Rs.53,63,000/- by way of cheque's, and balance Rs.4,78,49,500/- by cash. The cheques were given the name of my mother Smt.G.Neelamma, later she transferred Rs.17,00,000/- to my SIB account No. 52096276584 maintained with SBI, LB Nagar branch. Out of the cash of Rs.4,78,49,500/-, Rs.90,00,000/- is available in my bedroom and Rs.10,00,000/- is available in the bedroom of my brother Sri G.Bhaskar Reddy and out the balance of Rs.3,78,49,500/-, we have paid Rs.1,16,00,000/- to the team of 8 brokers headed by Sri Talla Muralidhar Reddy, Sri. Gongala Sekhar Reddy and Sri Tirumala and the balance of rs.2,62,49,500/- we have cleared out longstanding debts with interest to various persons.

Q10. Please give details of names and address of persons to whom you paid Rs.2,62,49,500/- to clear your debts.

Ans. As of now, I do not remember the names and address of persons who whom we paid Rs.2,62,49,500/- to clear our debts.

Q.11 As seen from the sale deeds vide document No.616 and 617 of 2019 registered at SRO, Medchal, the total sale consideration is Rs.53,63,000/- only. Why can't be treated the balance of Rs.4,78,49,500/- as your undisclosed income.

Ans. As per the agreement of sale for which I could not produce copy, we agreed to sell for total consideration of Rs.5,32,12,500/-. However, the sale deeds were executed for Rs.53,63,000/-. It was done on demand of the buyer only. I cannot justify that the balance of Rs.4,78,49,500/- be treated as our undisclosed income of our family according to our shares.

Q12. During the course of search & seizure operation u/s. 132 of the Income Tax Act, 1961 in your premises, cash of Rs.90,00,000/- in your bedroom and Rs10,65,000/- in, the bedroom of your brother Sri G.BhaskarReddy. Please explain the sources of cash, along with substantial evidences In support of your claim.

Ans. Yes, cash total cash of Rs.1,00,65,000/- was found during the physical verification of this house. The cash is part of left over cash received as sale consideration over and above what is recorded in the sale deed document 616 and 617 of 2019 executed at SRO, Medchal, I cannot produce relevant evidences.

Q13 In the absence of an explanation and evidences, please explain as to why cash of Rs.1,00,00,000/- should not be treated as your unaccounted income?

Ans: As there is no evidence or any explanation in support of my claim, I agree that this cash of Rs90,00,000/- found in my possession and Rs.10,00,000/- in possession of my brother Sri G.Bhaskar Reddy is unaccounted income in the hands of myself and my brother G.Bhaskar Reddy. We have no objection to seize the said cash of Rs.1,00,00,000/-.

Q.1.4. As per the agreement of sale dated 09-01-2019, your, brother Sri G. Dharmender Reddy received cash of Rs.30,50,000/- and cheque of Rs.19,50,000/- from G.Radhakrishna Chaitanya towards sale of A.1-20 guntas. Please explain how much cash was received till date and where does he keeps cash.

Ans: Yes, As per the Agreement of Sale dated 09-01-2019 executed by my step brother Sri. G Dharmender Reddy towards sale of Ac 1-20 units in favour of Sri Gorinta Radhakrishna Chaitanya s/o. G Ramalinga Raju r/o. Plot No.108, Siddhartha Nagar, Hyderabad-500038 at the rate of Rs.1,20,00,000/- per acre, he has received Rs.30,50,000/- by way of cash, and Rs.19,50,000/- by way of cheque and for the remaining balance of Rs 1,43,50,000/- the buyer agreed to pay at the time of execution of sale deed.

As per the agreement of sale, he has received Rs.30,50,300/- by way of cash and Rs.19,50,000/- by way of cheque. Out of the cash of Rs.30,50,000/- he clear his debts by repaying in cash and with cheque of Rs.19,50,000/- which got cleared into his account No 30854627185 (SBJ Karmanghat Branch) and later he transferred to his uncle to clear his debts. Therefore, there are no leftover cash either in his possession or bank. As there is no patta book in his name, the registration is not yet done and balance consideration is yet to be received. The buyer, assured us that he will pay the balance amount along with interest at the time of registration.”

13. From the reading of the above questions and answers, it is clear that not only the assessee had received a sum of Rs.1,00,00,000/-, the others had also received a similar amount from the purchaser. The Id.CIT(A) had conveniently glossed over the above said statement which is duly supported by the recovery of Rs.90,00,000/- from the bed room of the assessee. The order of Id.CIT(A), is not only perverse but shows non-application of mind and had given a go-bye to the settled principle of law.

14. Further, we are also of the opinion that the law has not permitted any person, whether agriculturalist or non-agriculturalist to receive the sale consideration in respect of immovable property by way of cash. On this aspect, the law is clear. Even assuming for a minute that the cash was received on account of sale of agricultural land then also it cannot be justified as it is contrary to the letter and spirit of the Act. The very foundation of the order passed by the Id.CIT(A) that land being agriculture and is not a capital asset and therefore, the cash can be received for sale of said land is full of flaws and is contrary to law. The findings of the Id.CIT(A) that a sum of Rs.1,00,00,000/- even if received by the son on behalf of mother is required to be considered as ‘Gift’ is again a perverse finding and against the

accepted principles of law. The definition of 'Gift' is always having an element of love and affection and it cannot be premised on the transaction under consideration. The assessee has received his share of Rs.1,00,00,000/- in cash and besides that he also received Rs.17,00,000/- in his SB account No. 52096276584 maintained with SBI, LB Nagar branch, which was transferred by his mother (as admitted by the assessee in reply to question no.9.) and the mother had received her own share of Rs.1,00,00,000/- as explained by the assessee in his statement.

15. Further, the Id.CIT(A) had failed to examine the agreement of sale dt.21.11.2018 executed in favour of Smt. Gorinta Vijaya Lakshmi, W/o. G. Ramalinga Raju, by virtue of which the assessee along with others have agreed to sell their total land admeasuring of ac.7-05 gts of land in sy.no.363/2/1/1/ and 363/2/2 and Ac.1-00 gts of land in sy.no.363/2 at the rate of Rs.1,29,00,000/- per acre. Had the Id.CIT(A) examined this agreement of sale along with the bank statements of other persons then he would have been able to appreciate the facts of the present case. Needful was not done for the reasons best known to them.

16. Furthermore, no evidence was brought on record justifying the possession of Rs.90,00,000/- found from the bed room of the assessee and the assessee has not rebutted the above said onus in accordance with section 292C of the Act r.w. the other provisions of the Evidence Act. For this reason also, the order of Id.CIT(A) is perverse and is required to be set aside.

17. As the Id.CIT(A) has decided the issue without calling for the remand report from the Assessing Officer as mentioned hereinabove on the above discussed aspects, therefore, we deem it appropriate to remit back the matter to the file of Assessing Officer. Hence, we remit back the matter to the file of Assessing Officer with a direction to conduct assessment proceedings afresh after affording due opportunity of hearing to the assessee, in accordance with law. The assessee shall be at liberty to file documents, if any, as required for proving his case and the Assessing Officer shall consider the evidences, if any, filed by the assessee. Needless to say that the Assessing Officer shall examine those documents / evidence filed by the assessee and also other documents available on record. After considering all the submissions and the documents filed by the assessee and the submissions made by the assessee, the Assessing Officer shall pass a detailed speaking order dealing with the contentions of the assessee. We further made it clear that the Assessing Officer shall not be bound by the finding of the assessment order dt.09.06.2021 in the case of Smt. Neelamma Gangi Reddy, who is mother of the assessee. We are refraining ourselves from making any comments about the manner in which the assessment order was passed by the same Assessing Officer in the case of said Smt. Neelamma Gangi Reddy despite the fact that the statement of the assessee and others are very much available on record. With these observations, the appeal of the Revenue is allowed for statistical purposes.

18. In the result, the appeal of Revenue in ITA No.206/Hyd/2023 is allowed for statistical purposes.

19. Now coming to the other appeal i.e. ITA No.207/Hyd/2023, as we remanded back the main appeal to the file of Assessing Officer for passing fresh assessment order, the penalty proceedings initiated by the Assessing Officer u/s 271D of the Act would have a bearing on the outcome of the assessment order passed by the Assessing Officer on the basis of our directions issued in the main appeal. Therefore, we deem it appropriate to remand this appeal also to the file of Assessing Officer to pass appropriate orders, after considering the reply / objections of the assessee, including the argument of non-recording of satisfaction and also explaining the source of cash. Thus, this appeal of the Revenue is also allowed for statistical purposes.

20. In the result, the appeal of Revenue in ITA No.207/Hyd/2023 is allowed for statistical purposes.

21. To sum up, both the appeals of Revenue are allowed for statistical purposes. A copy of the same may be placed in the respective case files.

Order pronounced in the Open Court on 21st September, 2023.

Sd/-

Sd/-

(R.K. PANDA) VICE PRESIDENT	(LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 21st September, 2023.

TYNM/sps

Copy to:

S.No	Addresses
1	Chandrashekar Reddy G, R/o.10-1-114, Bairamalguda, Saroornagar, Hyderabad – 500079, Telangana.
2	The Deputy Commissioner of Income Tax, Central Circle – 1(3), Hyderabad.
3	Pr.CIT (Central), Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order