

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “SMC”, HYDERABAD**

BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.25/Hyd/2024		
Assessment Year: 2003-04		
Narasimha Sunanda Reddy Vongumalle, R/o.8-2-236, Plot No.406, Silpa Manor, Yousufguda, Telangana – 500038. PAN : ABMPV9517E.	Vs.	The Deputy Commissioner of Income Tax, Circle – 1(1), (OLD) Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Shri A. Srinivas, C.A	
Revenue by:	Shri B. Yadagiri, SR.AR	
Date of hearing:	06.03.2024	
Date of pronouncement:	07.03.2024	

ORDER

PER LALIET KUMAR, J.M.

The appeal of the assessee for A.Y. 2003-04 arises from the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dt.08.11.2023 invoking proceedings under section 143 r.w.s. 147 of the Income Tax Act, 1961 (in short, “the Act”).

3. The grounds raised by the assessee read as under :

“ 1. *The order of the Appellate Commissioner is contrary to law, facts and circumstances of the case.*

2. *The CIT ought not to have confirmed the reopening u/s.147 of the Income Tax Act., and is bad in law.*

3. *The Appellate Commissioner ought not to have confirmed the Assessment Order, which was passed in violation of natural of justice.*

4. *The Appellate Commissioner ought not to have confirmed an amount of added by the A.O.*

5. *The Appellate Commissioner ought not to have confirmed an amount of Rs.1,15,000/- added by the A.O.*

4. The brief facts of the case are that assessee, who is an individual, filed his return of income for AY 2003-04 on 28-03-2005 admitting a total income of Rs,2,34,500/-. During assessment, significant cash deposits were found in the bank accounts, unexplained by the assessee. Hence, a notice u/s 148 was issued, to which the assessee requested to treat the return filed on 28-3-2005 as reply to the above cited notice. Subsequently, a notice u/ s 143(2) of the Act was issued and the case was converted into scrutiny. Thereafter, notice u/s 142 (1) of Act was issued, calling certain information. In response to the notice, assessee and Sri. Deva Raju Reddy, FCA, authorized representative of the assessee appeared and the case was discussed. The assessee claimed that the cash deposits were from loans received from Sri V.G. Narasimha Reddy (HUF) and withdrawals. However, no satisfactory explanation was provided for the HUF loan. Assessee was asked to furnish the

details of un-secured loans, i.e., name and address, PAN, Confirmation letter, The mode of transaction -Cash or Cheque. Assessee did not furnish any confirmation of unsecured loans or any details connected with it except in the case of Sri. K.Prasad Reddy. Though, assessee claimed to have received cash loan from Sri.V.G. Narasimha Reddy (HUF). But could not give satisfactory explanation for source for HUF to advance loan. The Assessing Officer found unconfirmed cash loans in the balance sheet, totaling Rs. 42,65,000/-. Assessing Officer added these unconfirmed loans to the total income of the assessee and thereby assessed the income at Rs.44,99,500/- and thus, completed the assessment and passed assessment order under section 143 r.w.s. 147 of the Act.

5. Feeling aggrieved with the order of Assessing Officer assessee filed an appeal before the Id.CIT(A), NFAC, Delhi, who granted part relief to the assessee by observing as under :

“5.2.1 During the course of present appellate proceedings, the appellant has stated that he was having a company S.S.Organics Ltd. and the same had become sick. His father and family members had together decided to bail him out by advancing amount to him from time to time. The appellant had two brothers and two sisters. His father expired on 14.07.2006. His father had executed a Will on 11.01.2004. As per the Will, the family owned total land of 41 acres and the family had considered income from the said land. Affidavit was filed confirming the amount of Rs. 34 lakhs given on various dates to the appellant from the family funds.

5.2.2 The appellant had received cash deposits as loans from V.G.N.Reddy, HUF and the sources of HUF funds could not be explained. The appellant didn't disclose even the date, month of receipts of these amounts. Even in the affidavit, these details have not been elucidated. It is further stated that during assessment, remand proceedings before the AO, the party was not produced for examination nor any further details substantiating the genuineness of the loans taken was filed. Even in the appellate proceedings, no

further details were filed. Therefore, I have no reasons to interfere with the above addition of Rs. 34 lakh made by the AO treating the loans as unexplained credits. In view of the above facts, addition of Rs. 34 lakh is hereby confirmed.

5.2.3 The appellant has furnished confirmation letters from Shri V.Bhaskar Reddy and Shri J. Vijaya, who had paid him Rs. and Rs. 5 lakh respectively and the same have been considered. The amounts have been received through two cheques of Syndicate Bank (Rs. 1 lakh & Rs. 4 lakh) and have been returned through bank. Shri V. Bhaskar Reddy advanced loan of Rs. 2,50,000/- through bank and has mentioned his PAN, particulars of bank etc. In view of above details, the additions of Rs. & Rs. 5 lakh are hereby deleted.

5.2.4 However, no confirmation from Shri E.R.S.Reddy having received Rs. 1,15,000/- has been furnished. The appellant has failed to prove the identity, genuineness, creditworthiness of above loan. Hence, the addition of Rs. 1,15,000/is hereby confirmed.”

6. Firstly, the ld. AR for the assessee has drawn my attention to paragraphs 5.2.1. to 5.2.4 of the order of ld.CIT(A), which was extracted above, and also the documents submitted before the appellate proceedings. The ld. AR further submitted that the father of the assessee was holding the land to an extent of 41 acres consisting 18 acres of mango, 2 acres of coconut and 21 acres of paddy, vegetables and sugarcane depending on the season and that their family had considerable income from the above 41 acres. He further submitted that The ld. AR further submitted that the assessee is also having pattadar passbook showing ownership of the above lands in the name of the father of assessee. The ld. AR further submitted that the assessee had also confirmed the above facts by way of an affidavit, given by the brother of assessee Mr. V. Chavana Reddy, before the lower authorities.

7. Per contra, ld. DR had submitted that the affidavit given by the brother of the assessee neither complete nor having any evidence to the effect that the paddy was grown during the year under and consideration and that the assessee was having sufficient means. Ld. DR also contended that even if we assume that paddy was grown in those lands, then some amounts must have been spent to carry out those agricultural activities and even some amount which has been given to the workers, who worked in the field.

7.1. The ld. DR further submitted that the Will was executed by the father of the assessee falls on 01.11.2004 i.e., after filing of the return of income. If that be the case, the father of the assessee would have mentioned that he had earned the income from the agriculture produce. However, the same was not reflected in the return of income and that even the assessee has also not shown the amount in the return of income. Ld. DR also submitted that when HUF and father has not filed any return of income, therefore, there is no question of availability of funds with the HUF / father to give it to the assessee. The ld. DR also submitted that the pattadar pass book as per record was in the name of late V.J.N. Reddy and not in the name of HUF.

8. I have heard the rival submissions and perused the material on record. It is the case of the assessee that the assessee has taken the loan from the HUF and the HUF was having the agricultural land. However, the record shows that the said agricultural land does not belong to HUF. The pattadar pass book

submitted by the assessee before the appellate authority pertains to the year 1994 and does not pertain to the assessment year under consideration. Further, Pattedar Pass Book was in the name of father. Further, I found that affidavit given by the brother of the assessee is lacking the important particulars like date, month and amount given by the father and source of amount given. In my view, the assessee had failed to discharge the onus of proving the source of deposit in the bank account to the satisfaction of Assessing Officer / Id.CIT(A) / Tribunal, being genuine. However, considering the totality of the facts and circumstances and the facts that the assessee's father was an agriculturist, assessee was having share in the said property and the affidavit filed by the assessee which was given by this brother, I am of the opinion that some benefit can be given to the assessee. Accordingly, I upheld the addition of 30 lakhs and delete the addition of Rs.4 lakhs. Thus, the appeal of the assessee is partly allowed.

13. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the Open Court on 7th March, 2024.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad, dated 7th March, 2024.
TYNM/sps

Copy to:

S.No	Addresses
1	Narasimha Sunanda Reddy Vongumalle, R/o.8-2-236, Plot No.406, Silpa Manor, Yousufguda, Telangana - 500038.
2	The Deputy Commissioner of Income Tax, Circle – 1(1), (OLD), Hyderabad.
3	Pr1.CIT (Circle), Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order