

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH: BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

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| ITA No.445/Bang/2024 |
| Assessment Year: 2015-16 |

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| Sri Aubin Sanyal Sipani Grande APT 502 17 th E Main 5 th A Cross Koramangala 6 th Block Bengaluru 560 095 PAN NO : BAZPS7189E | Vs. | ITO Ward-4(3)(2) Bangalore |
| APPELLANT | | RESPONDENT |

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| Appellant by | : | Shri Shivakumar G., A.R. |
| Respondent by | : | Shri Narendra Kumar Naik, D.R. |

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| Date of Hearing | : | 01.05.2024 |
| Date of Pronouncement | : | 01.05.2024 |

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal by assessee is directed against order of NFAC for the assessment year 2015-16 dated 18.12.2023. The assessee raised following grounds of appeal:

- 1. “The impugned Appellate order dated 18.12.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi in so far as it is prejudicial to the interest of the appellant is opposed to law, facts and circumstances of the case.*
- 2. The NFAC erred in law and on facts in not appreciating the fact that the appellant had explained the source of investment amounting to Rs.70,00,000/-*
- 3. The NFAC erred in law and on facts in not appreciating the fact that the appellant had furnished details of bank statement of the creditor from whom the appellant had borrowed a sum of Rs.70,00,000/- to purchase an immovable property and as such the order passed without verifying the veracity of the transaction/details is bad in law and is liable to be deleted.”*

2. Facts of the case are that in this case there was a payment of Rs.2.8 Crores towards purchase of immovable property. Before the ld. AO, the assessee has not furnished source of payment of the impugned amount of R.2.8 Crores. Hence, the ld. AO made addition of Rs.2.8 Crores u/s 69 of the Income Tax Act, 1961 (in short "The Act"). Against this assessee went in appeal before NFAC. Before NFAC, assessee explained that an amount of Rs.2.1 Crores being loan from ICICI Bank and explained the source of payment to that extent. Accordingly, NFAC deleted that addition. However, the balance amount of Rs.70 lakhs alleged to be borrowed by assessee from one Mr. Hosadurgam Nigamanthan Varadarajan. However, the assessee was not able to adduce any evidence to support this loan. Hence, the addition of Rs.70 lakhs was confirmed by NFAC. Against this assessee is in appeal before us.

2.1 Before us, ld. A.R. filed additional evidence as follows:

| SL. NO. | PARTICULARS | PAGES | | FILED/ AVAILABLE BEFORE THE | |
|---------|--|-------|----|-----------------------------------|--------|
| | | FROM | TO | A.O. | CIT(A) |
| 1 | Application Under Rule 29 Of Income Tax Appellate Tribunal Rules, 1963 For Admission of Additional Evidence. | 1 | 02 | - | - |
| 2 | The copy of the death certificate of late Shri. Shri Hosadurgam Nigamanthan Varadarajan. | 03 | 03 | NO | NO |
| 3 | A Copy of the HDFC Bank Statement bearing account No. 12081000012280 of Shri Hosadurgam Nigamanthan Varadarajan for the period April 2014 to March 2015 maintained with HDFC Bank, Saraswathipuram Branch. | 04 | 21 | NO | NO |
| 4 | A copy of SBI Bank statement bearing account No. 030657624076 of Shri Hosadurgam Nigamanthan Varadarajan for the period April 2014 to March 2015 maintained with SBI Bank, Kuvempunagar Branch, Mysore | 22 | 24 | NO | NO |

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|---|--|----|----|----|----|
| 5 | The Copy of the HDFC NRO Bank statement bearing account No.12081000010241 of the Appellant maintained with HDFC Bank, Saraswathipuram Branch, Mysore | 25 | 26 | NO | NO |
| 6 | A Copy of Computation of Total Income and ITR filed vide e-filing acknowledgement No.739399100290815 dated 29-08-2015 of Shri Hosadurgam Nigamanthan Varadarajan | 27 | 31 | NO | NO |
| 7 | A Sworn-in- joint Affidavit of Smt. H N Shantha d/o H R Nigamanthan and Smt. H N Arvinda d/o H R Niganamthan sisters and legal heirs of Shri Hosadurgam Nigamanthan Varadarajan confirming the loan transactions | 32 | 33 | NO | NO |

2.2 The assessee also filed a petition for admission of additional evidence stating that assessee has borrowed Rs.70 lakhs from Mr. Hosadurgam Nigamanthan Varadarajan during the financial year 2014-15 and he was passed away on 4.11.2021. Therefore, assessee was not able to produce any confirmation letter from the said party. Later after much effort, assessee able to procure the above document and prayed that the same may be admitted in the interest of justice under Rule 29 of ITAT Rules, 1963.

3. The ld. D.R. strongly opposed the argument of ld. A.R. for admission of additional evidence.

4. We have heard the rival submissions and perused the materials available on record. As seen from the application filed by assessee for admission of additional evidence, it is a fact that Mr. Hosadurgam Nigamanthan Varadarajan was expired on 4.11.2021 and these documents were not available with the assessee at the time of assessment or proceedings before first appellate authority (NFAC). Hence, in the interest of justice, we admit these additional evidences since these additional evidences were first time filed before this Tribunal and the ld. AO has no occasion to examine these additional evidences on earlier occasion. Hence, in the interest of justice, we remit the entire issue in dispute to decide the same in the light of

above documents after giving an opportunity of hearing to the assessee.

5. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 1st May, 2024

Sd/-
(Beena Pillai)
Judicial Member

Sd/-
(Chandra Poojari)
Accountant Member

Bangalore,
Dated 1st May, 2024.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.