

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

BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER  
AND  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No.752/Bang/2023
Assessment year : 2015-16

Gopal Lokesh, No.62, 1 <sup>st</sup> Main, A Cross, Vijnan Nagar, New Thippasandra Post, Bangalore – 560 075. <b>PAN : AEVPL 4522M</b>	Vs.	The Income Tax Officer, Ward 1(2)(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Sandeep Chalapathy, CA
Respondent by	:	Shri Subramanian S., Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	06.06.2024
Date of Pronouncement	:	26.06.2024

**ORDER**

*Per Laxmi Prasad Sahu, Accountant Member*

This appeal is filed by the assessee against the order dated 10.08.2023 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2015-16 on the following grounds:-

- “ 1. That the order of the learned Commissioner of Income Tax (Appeals) is in so far it is prejudicial to the interests of the appellant is bad and erroneous in law and against the facts and circumstances of the case.

2. That the learned Commissioner of Income Tax (Appeals) erred in law and on facts in not providing a proper opportunity of being heard to the appellant before deciding the appeal.
3. That the additions made in the assessment order and confirmed by the Commissioner of Income Tax (Appeals) are perverse as there is no specific finding in the order u/s 250 of the Act and it is mere reproduction of the assessment order.
4. That the learned Commissioner of Income Tax (Appeals) erred in law and on facts in confirming the addition u/s 68 of the Act to the extent of Rs. 22,46,053 as unexplained cash credits without considering the cash withdrawals by the appellant from his bank accounts as sources.
5. That the learned Commissioner of Income Tax (Appeals) erred in law and on facts in confirming the addition of Rs. 1,05,60,969 towards unsecured loans on the ground that the same has not been explained.
6. That the learned Commissioner of Income Tax (Appeals) erred in law and on facts in confirming the addition of Rs. 1,05,60,969 towards unsecured loans even though the appellant has proved the identity and creditworthiness of the creditor and genuineness of the transactions.
7. That the learned Commissioner of Income Tax (Appeals) erred in law and on facts in not considering the fact that some of them are cash loans and the addition leads to double addition as the cash deposits has already been considered as income.
8. That the learned Commissioner of Income Tax (Appeals) erred in law and on facts in making addition of Rs. 3,25,000 holding that the same cannot be considered as agricultural income.
9. That the learned Commissioner of Income Tax (Appeals) erred in law and on facts in confirming the addition of Rs. 20,00,000 as gift from the father even though no gift has been received by the appellant.

Each of the above grounds is without prejudice to one another, the appellant seeks the leave of the Hon'ble Income Tax Appellate Tribunal, Bangalore to add, delete, amend or modify otherwise one or more grounds of appeal either before or at the time of hearing this appeal.”

2. Briefly stated the facts of the case are that the assessee is engaged in the business of supply of milk to KMF Nandini and water supply and has rental income and income from other sources. The assessee filed return of income on 01.03.2017 declaring total income of Rs.7,07,710. The case was selected for scrutiny under CASS and statutory notices were issued to the assessee. As per AIR information the assessee deposited cash in SB A/c of HDFC Bank totalling to Rs.1,04,87,193. Assessee submitted reply stating the cash deposit of Rs.1,21,02,439 was out of dairy business, water sales and agricultural income amounting to Rs.98,56,386 and balance amount of Rs.22,46,053 was not explained and it was treated unexplained cash receipt and added to total income. From the financial statements it was noted that the assessee has taken unsecured loan from different parties, but the assessee was unable to satisfy the AO in terms of section 68, therefore Rs. 1,05,60,969 was added u/s. 68 of the Act. Further the AO noted that assessee has shown agricultural income of Rs.8,25,000 out of which for want of proper proof, Rs.3,25,000 was added as income from other sources. The AO also noted that assessee has received cash gift from his father and assessee was asked to justify the creditworthiness of the donor. From the bank statements submitted, it was noted that there is no entry in the bank statement of transfer of Rs.20 lakhs, no confirmation from assessee's father regarding mode of

payment or gift deed substantiating this payment. Accordingly, it was brought to tax and total income of Rs.1,58,39,732 was assessed.

3. On appeal, the First Appellate Authority (FAA) confirmed the order of the AO. Aggrieved the assessee is in before the ITAT.

4. The Id. AR submitted that the Id. FAA has not given proper opportunity of being heard to the assessee and documents furnished by the assessee have also not been appreciated properly by both the revenue authorities. The Id. AR filed paperbook containing pages 1 to 102 and submitted that pages 1 to 21 were filed before the lower authorities. He requested that if a chance is given to the assessee, he undertook to respond to the notices and substantiate the case of the assessee with evidence before the lower authorities.

5. The Id. DR relied on the order of lower authorities and objected to sending back the matter to lower authorities. He submitted that the assessee had ample chances to prove the source of amounts received and he was unable to establish to the satisfaction of the AO.

6. Considering the rival submissions, we note that the AO assessed income at Rs.1,58,39,732 under different heads as discussed in the assessment order. The assessee has filed documents during the course of proceedings which are not appreciated properly by both the revenue authorities. Therefore, considering the prayer of the assessee and in the interest of justice, we remit the issue to the CIT(Appeals) for fresh consideration and decision as per law. The assessee is directed to file

necessary documents that would be essential and required for substantiating his case and for proper adjudication by the revenue authorities. Needless to say that reasonable opportunity of being heard be given to the assessee. The assessee is directed to cooperate with the proceedings and not seek unnecessary adjournment for early disposal of the case.

7. In the result, the appeal by the assessee is allowed for statistical purposes.

Pronounced in the open court on this 26<sup>th</sup> day of June, 2024.

Sd/-  
( BEENA PILLAI )  
JUDICIAL MEMBER

Sd/-  
(LAXMI PRASAD SAHU )  
ACCOUNTANT MEMBER

Bangalore,  
Dated, the 26<sup>th</sup> June, 2024.

*/Desai S Murthy/*

Copy to:

1. Appellant
2. Respondent
3. Pr.CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.