

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

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

ITA No.1093/Bang/2024
Assessment Year: 2014-15

Ensure Builders and Developers No.TF-10, 3 <sup>rd</sup> Floor Balaji Nest Apartment Basappa Layout HRBR Layout Hennur Karnataka 560 043  <b>PAN NO : AAEFE4924H</b>	<b>Vs.</b>	ITO Ward-1(2)(1) Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Sri Atul Madhavan, A.R.
<b>Respondent by</b>	:	Sri Subramanian S., D.R.

<b>Date of Hearing</b>	:	11.07.2024
<b>Date of Pronouncement</b>	:	18.07.2024

**O R D E R**

**PER CHANDRA POOJARI, ACCOUNTANT MEMBER:**

This appeal by assessee is directed against order of NFAC for the assessment year 2014-15 dated 30.3.2024. The assessee raised following main grounds:

- “2. *The Hon’ble NFAC ought to have held that the addition of Rs.1,83,25,000/- is bad in law.*
3. *The Hon’ble NFAC, Delhi, ought to have accepted that the firm had purchased the immovable property out of the capital contributed by the partners.*
4. *The Hon’ble NFAC ought to have appreciated that in the facts and the circumstances of the case no addition can be made in the hands of the appellant.*
5. *The Hon’ble NFAC ought to have accepted the explanation of the appellant and deleted the addition of Rs.1,83,25,000/- “.*

**2.** Facts of the case are that the assessee is a partnership firm registered in December, 2013 with 3 partners namely a. Sri. Vijay Bhaskara Reddy, b. Sri. Suresh Babu Mitta and c. Sri. Rama Kishore C., who retired on 12.03.2014. The total capital contribution from the partners of the partnership firm is Rs.3,26,25,000/- (Rupees Three Crore Twenty Six Lakhs and Twenty Five Thousand only). The capital contribution of the partners into the partnership firm are as follows:

<b>Name of Partner</b>	<b>Amount as capital</b>
Vijay Bhaskara Reddy	Rs.1,23,25,000/-
Suresh Babu Mitta	Rs.1,28,00,000/-
Rama Kishore C	Rs.75,00,000/-

**2.1** Pursuant to capital contribution and the partnership firm purchased immovable property for Rs. 3,15,48,050/- (Rupees Three Crore Fifteen Lakhs Forty Eight Thousand and Fifty only) wholly from the capital contribution of the partners which was received in the bank account of the partnership firm.

**2.2** This being the case, the Assessing Officer has taxed the entire capital contribution that is to say that the Assessing officer has considered the total capital contribution as the total income of the assessee being the Assessee herein and held that the entire sum of Rs. 3,26,25,000/- (Rupees Three Crore Twenty Six Lakhs Twenty Five Thousand only) is liable to be taxed under Section 143(3) read with Sections 147 and 144B of the Income-Tax Act, 1961 (in short "The Act").

**2.3** Further, the capital contribution of the partners and the source has been explained the partners of the partnership firm. During the proceedings before the Assessing Officer, the partners

were unable to submit the bank statements as the subject-matter is over 8 years and requested for time. In the meantime, the assessing officer erred in passing the assessment order under Section 147 read with Section 144B without granting the partners of the assessee sufficient time to produce the documents and without considering the explanation given by the partners.

**2.4** Thereafter, upon passing the assessment order, the assessee challenged the same before the NFAC and the pleaded that no opportunity was given by the Assessing Officer to produce documents and without any application of mind the assessment order was passed. The Assessee and the partners produced various documents as proof of source of funds. The AO was provided an opportunity to provide his comments to submissions, grounds and evidence and a remand order was issued on 05.03.2024 but remand report was not received.

**2.5** The NFAC concluded that the assessee has not established the genuineness of certain amounts allegedly received from the partners. The sum in question is a sum of Rs. 1,08,25,000/- from Mr. Vijay Bhaskara Reddy and a sum of Rs.75,00,000/- from Mr. Rama Kishore C totaling to Rs.1,83,25,000/-. The NFAC has accepted the other receipts and thus partly allowed the appeal of the assessee. Hence, the assessee is in appeal before us.

**3.** The ld. A.R. submitted that the impugned order passed by the NFAC is opposed to law and facts of the case and liable to be dismissed. The NFAC ought to have held that the addition of Rs. 1,83,25,000/- (Rupees One Crore Eight Three Lakhs and Twenty Five Thousand only) is bad in law. He ought to have accepted the submission of the firm that the firm has purchased immoveable property out of the capital contribution of the partners and the documents for proof of the same are produced herewith. He ought to

have appreciated in the facts and circumstances of the present case no addition can be made in the hands of the Appellant. Further, he ought to have accepted the explanation of the Appellant and delete the addition of Rs. 1,83,25,000/- and the impugned order passed is bad in law. It is trite law that the capital contribution of the firm cannot be treated and taxed as income at the hands the firm. Further, the NFAC did not appreciate or provide the appellant with an opportunity to produce the document evidencing purchase of immovable property by the firm. The explanation of the source of funds of Mr. Vijay Bhaskara Reddy was provided to the NFAC. However, without any application of mind without considering the submissions of the partner Mr. Vijay Bhaskara Reddy, the S NFAC passed the impugned order. The Id. A.R. submitted a summary of the source of Mr. Vijay Bhaskara Reddy as below and the bank statements of the partner are enclosed as proof.

Sl. No.	From	To	Date of transaction	Amount
1.	Vijay Bhaskara Reddy	Ramachandraiah	14.09.2013	Rs.1,00,000/-
2.	Vijay Bhaskara Reddy	Ramachandraiah	07.10.2013	Rs.18,00,000/-
3.	Vijay Bhaskara Reddy	Ramachandraiah	13.09.2013	Rs.17,00,000/-
4.	M. Nagamani (wife of Mr. Vijay Bhaskara Reddy)	Ramachandraiah	12.09.2013	Rs.20,00,000/-
5.	M. Nagamani (wife of Mr. Vijay Bhaskara Reddy)	Ramachandraiah	07.10.2013	Rs.20,00,000/-

**3.1** The Id. A.R. submitted that from the above table, it is clear that Mr. Vijay Bhaskara Reddy and his wife Mrs. M. Nagamani had provided loans for a total sum of Rs. 76,00,000/- (Rupees Seventy-Six Lakhs only) to Mr. Ramachandraiah in the year 2013. Mr. Ramachandraiah is none other than the father of Mr. Rama Kishore. The loan was provided by Mr. Vijay Bhaskar Reddy and Mrs. M. Nagamani to Mr. Ramachandraiah as Mr. Ramachandraiah desired

to purchase an immovable property. However, upon receipt of the loan for commercial reasons Mr. Ramachandraiah did not pursue with the purchase of immovable property and suggested to Mr. Vijay Bhaskar Reddy that he will return the money.

**3.2** He submitted that since, during the same time Mr. Vijay Bhaskara Reddy was in talks with Mr. Rama Kishore to start a partnership firm and requested Mr. Ramachandraiah to return the money in order to use as capital contribution of Mr. Vijay Bhaskara Reddy. Upon completion of discussions to formulate a partnership firm, the capital contribution to be paid by Mr. Vijay Bhaskara Reddy was Rs. 1,23,25,000/- and accordingly he contributed the same. The NFAC has only considered Rs.15,00,000/- as proper and has disallowed the balance 1,08,25,000/- Since Mr. Ramachandraiah owed a sum of Rs. 76,00,000/-, Mr. Vijay Bhaskara Reddy, he approached Mr. Ramachandraiah to return the loan of Rs. 76,00,000/- and also requested him to additionally provide a sum of Rs. 21,00,000/- (Rupees Twenty One Lakhs only) as loan to him and that he would repay the same within a period of time.

**3.3** He further submitted that Mr. Ramachandraiah accordingly returned the money taken as loan earlier and also provided additional funds as loan transferred a sum of Rs. 97,00,000/- (Rupees Ninety Seven Lakhs only) to the account of Ensure Builders and Developers directly and not to the account of Mr. Vijay Bhaskara Reddy. (The bank statement of Ensure Builders shows a receipt of Rs. 1,42,00,000/- as received from Mr. Ramachandriaiah and the bank statement of Mr. Ramachandriaiah also shows the debit entry. Out of the Rs. 1,42,00,000/- an amount of Rs. 97,00,000/- is to be considered as receipt against Mr. Vijay Bhaskar Reddy). It was because the capital contribution of Mr. Vijay Bhaskara Reddy was not transferred from his account directly, the AO passed an order without any application of mind and the NFAC passed the impugned order without considering the submissions of the Appellant.

**3.4.** He submitted that the balance of Rs. 11,25,000 deposited by Mr. Vijay Bhaskar Reddy is from the hand loans received from his mother Mrs. Chowdeswary for a sum of Rs. 5,00,000/-, from his uncle Mr. Subbareddy for a sum of Rs, 2,00,000/-, from his cousin Mr. Krishana Reddy for a sum of Rs. 2,50,000/ - and from his another cousin Mr. Tirupathi Reddy for a sum of Rs. 3,00,000/-. The source of funds thus explained by the partner ought to have been considered by the NFAC and the impugned order is liable to be set-aside.

**3.5** With regards to the capital contribution of Mr. Rama Kishore C of Rs.75,00,000/- the ld. A.R. for the assessee stated in the Appeal Order that for Rs. 30,00,000/- source has been confirmed but the identity of the partner in the form IT return not filed. It is submitted that Mr. Rama Kishore C was employed with EMC Software Pvt Ltd as an HR Manager from April 2013 until September 2013 for the FY 2013-14. During this employment period, all taxes were deducted at source (IDS) as per the employment income. Rama Kishore C embarked on a new venture by starting Ensure Builders as a partner, along with other partners in December 2013. Unfortunately, shortly after starting operations at Ensure Builders, Rama Kishore C, and his family encountered a serious accident in February 2014. This accident resulted in hospitalization for both Rama Kishore and his wife, which necessitated an extended period of recovery and care. As a result of these unforeseen circumstances and the focus on health and family, Rama Kishore inadvertently missed the deadline for filing his income tax returns for the financial year in question (likely FY 2013-2014). Despite intentions to file later, the opportunity to do so was missed due to the time constraints of the filing window and his personal medical and financial conditions.

**3.6** He submitted that for the balance Rs. 45,00,000/- contribution by Mr. Rama Kishore C, it is submitted that Mr. Rama Chandraiah provided this amount as a loan to his son, Mr. Rama

Kishore C. (An amount of Rs. 1,42,00,000/- was transferred directly to Ensure Builders account on 23 December 2013 by Rama Chandraiah. Out of the Rs. 1,42,00,000/- while Rs. 97,00,000/- is appropriated towards Mr. Vijay Bhaskar Reddy the balance amount of Rs. 45,00,000/ - is extended as loan to his son and is to be considered as receipt against Mr. Rama Kishore) (Transactions are reflected in both Ensure Builders bank Statement and Rama Chandraiah's Bank Statement)

**3.7** The ld. A.R.. submitted that where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year:

*[Provided that where the sum so credited consists of loan or borrowing or any such amount, by whatever name called, any explanation offered by such assessee shall be deemed to be not satisfactory, unless -*

*(a) the person in whose name such credit is recorded in the books of such assessee also offers an explanation about the nature and source of such sum so credited; and  
(b) such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory:*

**3.8** He submitted that In the analysis of Section 68, only the credits that are not explained should be charged to the income tax as income of the assessee. However, in the given case, the assessee has clearly explained the sources of funds along with relevant supporting documents (such as bank statements, confirmation letters, etc.).

Relevant Case Laws relied on as follows:

**3.9** ACIT Vs Ambika Enterprises (ITAT Delhi):

He submitted that the case of ACIT vs Ambika Enterprises adds to the legal understanding of capital contributions by partners in a firm and the application of section 68. The ruling underscores the

importance of the proper attribution of responsibility for explaining the nature of funds. By upholding the order of Ld. CIT(A), the court has emphasized that if the genuineness of the sources.

Therefore, section 68 will not be applicable in this case as the assessee has provided a satisfactory explanation for the nature and source of the capital introduced into the firm, and the credits are clearly reflected in the bank statements, unless the A.O(s) brought on record tangible material/ evidence to prove that the amounts, which had been received by the investors/ lenders from their sub-investors/ sub-lenders were actually received by Such sub-investors/sub-lenders from the Assessee(s) herein and that the same as unaccounted funds of the Assessee (s) herein from sources.

We have carefully considered on both sides and perused the materials on record. We find that in this case there is no ambiguity about the of the partner and capital introduced from him.

The ITAT held that the assessee had explained the fund flow and was not routing transactions between various companies. The assessee was the ultimate beneficiary of the funds introduced as share capital.

**3.10 Madhya Pradesh High Court – CIT Vs. Metachem Industries (200) 245 ITR 160 (MP)**

It was held that, according to Section 68, the burden was on the assessee to satisfactorily explain the credit entry in the books of account in the previous year and in a case where satisfactory explanation had been given by establishing that the amount had been invested by a particular person, be he a partner or any individual, then the burden of the assessee firm is discharged and the credit entry could not be treated to be income of the firm.

**3.11 Sanmin Trading & Holding Pvt. Ltd. vs ITO (ITAT Kolkata)**

ITAT states that section 68 of the Act provides that if any sum found credited in the year in respect of which the assessee fails to explain the nature and source shall be assessed as its undisclosed income.

In the facts of the present case, both the nature & source of the share application received was fully explained by the assessee. The assessee had discharged its onus to prove the identity, creditworthiness and genuineness of the share applicants.

**3.12** The Id. A.R. further submitted that in the given case, that the

- Third party is "Mr. Ramachandraiah" whose income was identified, and genuineness of the transaction was also verified. He transferred a total amount of Rs.97,00,000 to M/S Ensure Builders & Develop on behalf of Mr. Vijaya Bhaskar Reddy as a part of loan repayment of Rs.76,00,000 towards Mr. Vijaya Bhaskar Reddy and the remaining amount of Rs.21,00,000 was provided additionally as a hand loan to Mr. Vijaya Bhaskar Reddy (provided schedule for your reference).
- And Mr. Ramachandraiah had transferred an amount of Rs.45,00,000 to M/s. Ensure Builders & Developers as a capital contribution on behalf of Mr. Rama Kishore (his son). (Confirmation letter from Mr. Ramachandraiah is provided for reference)
- The Source of funds of Mr. Ramachandraiah has been identified as it was a loan amount borrowed by Mr. Ramachandraiah from Reliance Capital Limited, secured against a property for an amount of Rs. 1,31,95,476. The same amount was credited in his Bank Statement on 23rd December 2013.

**3.13** Further, the IT department questioned only explanation for unexplained credits, and never raised about authenticity of the transactions. The following were the summary of loans taken by Mr. Vijaya Bhaskar Reddy from various parties:

S.No.	From	To	Amount
1.	M. Chowdeswari	Vijay Bhaskar Reddy	5,00,000
2.	Y. Subba Reddy	Vijay Bhaskar Reddy	2,00,000
3.	Y. Krishna Reddy	Vijay Bhaskar Reddy	2,50,000
4.	Y. Tirupati Reddy	Vijay Bhaskar Reddy	3,00,000
		Total	12,50,000

Therefore, in the light of the above grounds, he respectfully prayed that this Tribunal may be pleased to quash/set aside the impugned order passed by the NFAC under section 250 of the Act dated 30.03.2024.

**3.14** He also drew our attention to the confirmation letters furnished by Ramachandraiah stating that he has transferred 1.42 Crores to Ensure Builders and Developers and which is apportioned as follows:

Reliance Commercial Finance Limited		Date: 11/07/2024	
Account Statement From 11/07/2000 To 11/07/2024		Page: 1 of 3	
<b>CHANNAMASETTY RAMACHANDRAIAH</b>			
FLAT NO T F 10 BALAJI NEXT BASAPPA LAYOUT 2ND CROSS HENNUR			
BANGALORE - 560043 - Ph:25447313			
Agreement No.	RLLPBAN000256675		
Branch:	BANGALORE	Amt Financed:	14,000,000.00
Product:	LOAN AGAINST PROPERTY	Amt Disbursed:	14,000,000.00
Currency:	INR	Installment Overdue:	0.00
Application No:	ML142915	Pre-EMI Overdue:	0.00
Co Applicant Name:	SIDDESWARI V	TDS Overdue:	0.00
Property Address:	INDUSTRIAL ESCROW SITE NO 02 SY NOS 143 AND 142 KHATA NO 715/A THANISANDRA MAIN ROAD NAGAWARA BANGALORE BANGALORE	Bounce Charges:	0.00
		Other Overdues:	0.00
		Unadjusted Amt:	0.00
		Net Receivable:	0.00
		Future Installments:	0.00/0
PLR(%):	18.25	Installment Paid:	1,643,301.00
Variance:	-4.25	Principal Paid:	181,612.44
ROI(%):	14.00	Interest Paid:	1,461,688.56
Disbursement Date:	02/12/2013	Pre-EMI Paid:	1,540.00
Interest Rate Type:	Floating	Security Deposit Amount:	0.00
Tenure:	120	OD accrued current month:	0.00
Frequency:	Monthly EMIs	Amount Sanctioned:	14,000,000.00
Instl. Period:	15/01/2014 To 15/12/2023		
Rest:	Monthly		
Number of Adv.EMI:	0		
Linked Agreement No:			
Status:	CLOSED		
Covid_Moratorium:	NO		

  

Date	Value Date	Particulars	Debit / Increased By	Credit / Decreased By	OD Chrgs Due	OD Chrgs Paid	Bounce Chg. Due	Bounce Chg. Paid
02/12/2013	02/12/2013	Amt Financed- Payable	0.00	14,000,000.00	0.00	0.00	0.00	0.00
02/12/2013	02/12/2013	Pf (Mortgages)- Due (Incl. Tax)	157,304.00	0.00	0.00	0.00	0.00	0.00
02/12/2013	02/12/2013	Amount Adjusted	152,304.00	152,304.00	0.00	0.00	0.00	0.00
02/12/2013	02/12/2013	Amount Paid Vide Cheque No.:RTGS Receipt No. ( N.A.)&	152,220.00	0.00	0.00	0.00	0.00	0.00
02/12/2013	02/12/2013	Pmnt Rcvd Vide Cheque No.:600536 Receipt No. ( N.A.)&	0.00	5,000.00	0.00	0.00	0.00	0.00
23/12/2013	15/12/2013	Amount Paid Vide Cheque No.:030024 Receipt No. ( N.A.)&	500,000.00	0.00	0.00	0.00	0.00	0.00
23/12/2013	15/12/2013	Amount Paid Vide Cheque No.:RTGS Receipt No. ( N.A.)&	13,195,476.00	0.00	0.00	0.00	0.00	0.00
31/12/2013	31/12/2013	Interest On Advance Disburseals- Due	1,540.00	0.00	0.00	0.00	0.00	0.00
31/12/2013	31/12/2013	Pmnt Rcvd Vide PDC No.:600595 Receipt No. ( N.A.)&	0.00	1,540.00	0.00	0.00	0.00	0.00
15/01/2014	15/01/2014	Due For Instalment 1	182,589.00	0.00	0.00	0.00	0.00	0.00
15/01/2014	15/01/2014	Pmnt Rcvd Vide PDC No.:600596 Receipt No. ( N.A.)&	0.00	182,589.00	0.00	0.00	0.00	0.00
31/01/2014	15/01/2014	Overdue Interest- Due	0.00	0.00	1,643.00	0.00	0.00	0.00
17/01/2014	17/01/2014	PDC No.:600596 Receipt No. ( N.A.)& Bounced 1*	182,589.00	0.00	0.00	0.00	0.00	0.00
17/01/2014	17/01/2014	Cheque Bouncing Charges- Due	0.00	0.00	0.00	0.00	450.00	0.00
24/01/2014	24/01/2014	Pmnt Rcvd Vide Cheque No.:REP600596 Receipt No. 1&	0.00	182,589.00	0.00	0.00	0.00	0.00
15/02/2014	15/02/2014	Due For Instalment 2	182,589.00	0.00	0.00	0.00	0.00	0.00

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**Reliance Commercial Finance Limited**  
**Account Statement From 11/07/2000 To 11/07/2024**

Date: 11/07/2024  
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Agreement No. RLLPBAN000256675

Date	Value Date	Particulars	Debit /		Credit /		OD Chrgs		Bounce Chg.	
			Increased By	Decreased By	Due	Paid	Due	Paid		
15/02/2014	15/02/2014	Pmnt Rcvd Vide PDC No.:600599 Receipt No. (N.A.)&	0.00	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00
15/03/2014	15/03/2014	Due For Instalment 3	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
15/03/2014	15/03/2014	Pmnt Rcvd Vide PDC No.:600597 Receipt No. (N.A.)&	0.00	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00
15/04/2014	15/04/2014	Due For Instalment 4	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
15/04/2014	15/04/2014	Pmnt Rcvd Vide PDC No.:600598 Receipt No. (N.A.)&	0.00	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00
15/05/2014	15/05/2014	Due For Instalment 5	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
31/05/2014	15/05/2014	Overdue Interest- Due	0.00	0.00	2,739.00	0.00	0.00	0.00	0.00	0.00
30/05/2014	30/05/2014	Pmnt Rcvd Vide Cheque No.:167555 Receipt No. 1224791&BAN/30052014/0039Rs.184,682.00	0.00	182,589.00	0.00	1,643.00	0.00	0.00	0.00	450.00
15/06/2014	15/06/2014	Due For Instalment 6	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
30/06/2014	15/06/2014	Overdue Interest- Due	0.00	0.00	2,739.00	0.00	0.00	0.00	0.00	0.00
30/06/2014	30/06/2014	Pmnt Rcvd Vide Cheque No.:157098 Receipt No. 1244316&BAN/30062014/0100Rs.188,000.00	0.00	185,261.00	0.00	2,739.00	0.00	0.00	0.00	0.00
15/07/2014	15/07/2014	Due For Instalment 7	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
31/07/2014	15/07/2014	Overdue Interest- Due	0.00	0.00	2,879.00	0.00	0.00	0.00	0.00	0.00
31/08/2014	15/07/2014	Overdue Interest- Due	0.00	0.00	539.00	0.00	0.00	0.00	0.00	0.00
31/07/2014	31/07/2014	Amount Adjusted	2,672.00	2,672.00	0.00	0.00	0.00	0.00	0.00	0.00
04/08/2014	04/08/2014	Pmnt Rcvd Vide Cheque No.:157138 Receipt No. 1246363&BAN/04082014/0043Rs.185,328.00	0.00	179,917.00	0.00	5,411.00	0.00	0.00	0.00	0.00
15/08/2014	15/08/2014	Due For Instalment 8	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
31/08/2014	15/08/2014	Overdue Interest- Due	0.00	0.00	2,921.00	0.00	0.00	0.00	0.00	0.00
19/09/2014	15/08/2014	Overdue Interest- Due	0.00	0.00	2,922.00	0.00	0.00	0.00	0.00	0.00
06/09/2014	06/09/2014	Pmnt Rcvd Vide Cheque No.:FT999 Receipt No. 1246445&BAN/06092014/0038	0.00	13,940,000.00	0.00	0.00	0.00	0.00	0.00	0.00
08/09/2014	08/09/2014	Pmnt Rcvd Vide Cheque No.:030024 Receipt No. DUMMY&BAN/08092014/0030	0.00	500,000.00	0.00	0.00	0.00	0.00	0.00	0.00
08/09/2014	08/09/2014	Cash Rcvd Vide Receipt No.1263282&BAN/08092014/0042 Rs. 21,840.00	0.00	21,840.00	0.00	0.00	0.00	0.00	0.00	0.00
08/09/2014	08/09/2014	Cash Rcvd Vide Receipt No.1263282&BAN/08092014/0043 Rs. 200.00	0.00	200.00	0.00	0.00	0.00	0.00	0.00	0.00
15/09/2014	15/09/2014	Due For Instalment 9	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
19/09/2014	15/09/2014	Overdue Interest- Due	0.00	0.00	365.00	0.00	0.00	0.00	0.00	0.00
17/09/2014	17/09/2014	Fc Statement Charge- Due (Incl. Tax)	200.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
17/09/2014	17/09/2014	Waived Off Amount At Termination- Payable	0.00	50,428.78	0.00	0.00	0.00	0.00	0.00	0.00
17/09/2014	17/09/2014	Current Month Int.At Termination- Due	10,747.63	0.00	0.00	0.00	0.00	0.00	0.00	0.00
17/09/2014	17/09/2014	Principle Component At Termination- Due	13,818,387.56	0.00	0.00	0.00	0.00	0.00	0.00	0.00
17/09/2014	17/09/2014	Amount Adjusted	200.00	200.00	0.00	0.00	0.00	0.00	0.00	0.00
19/09/2014	19/09/2014	Amount Adjusted	14,512,268.78	14,505,314.78	0.00	6,954.00	0.00	0.00	0.00	0.00
22/09/2014	22/09/2014	Interest Component - Received- Due	311,001.59	0.00	0.00	0.00	0.00	0.00	0.00	0.00
22/09/2014	22/09/2014	Amount Adjusted	311,001.59	311,001.59	0.00	0.00	0.00	0.00	0.00	0.00
<b>TOTAL</b>			<b>44,951,213.15</b>	<b>44,951,213.15</b>	<b>16,747.00</b>	<b>16,747.00</b>	<b>450.00</b>	<b>450.00</b>	<b>450.00</b>	<b>450.00</b>

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CIN : U66010MH2000PLC128301

**3.15** He also furnished bank statement explain the date of transaction as follows:

Sl. No.	From	To	Date of transaction	Amount
1	Vijay Bhaskara Reddy	Rama Chandraiah	14.09.2013	Rs. 1,00,000/-
2	Vijay Bhaskara Reddy	Rama Chandraiah	07.10.2013	Rs. 18,00,000/-
3	Vijay Bhaskara Reddy	Rama Chandraiah	13.09.2013	Rs. 17,00,000/-
4	M. Nagamani (wife of Mr. Vijay Bhaskara Reddy)	Rama Chandraiah	12.09.2013	Rs. 20,00,000/-
5	M. Nagamani (wife of Mr. Vijay Bhaskara Reddy)	Rama Chandraiah	07.10.2013	Rs. 20,00,000/-
<b>Total</b>				<b>Rs. 76,00,000/-</b>

**3.16** He also drew our attention for lending a sum of Rs.5 lakhs loan on her son Shri Vijaya Bhaskar Reddy which is kept on record at page 11 of the paper book. He also drew our attention to the confirmation letter issued by M. Subba Reddy to his uncle Mr. V.B. Reddy which is kept on record at page 12. Confirmation letter from Y.K. Reddy for giving loan of Rs.2.5 lakhs, V.B. Reddy, which is kept on record at page 13. Y.T. Reddy for giving a loan of Rs.3 lakhs to V.B. Reddy. Confirmation letter from M. Nagamani wife of Vijay Bhaskara Reddy for lending Rs.5 lakhs and also bank account statement from the respective parties in support of the transfer of amount to the concerned parties.

**4.** The ld. D.R. submitted that assessee has not explained the source for Rs.1,83,25,000/-. Hence, the addition has been made by ld. AO, which has been sustained by ld. CIT(A) and prayed to sustain the same.

**5.** We have heard the rival submissions and perused the materials available on record. In this case, the ld. CIT(A) confirmed the addition on the reason as follows:

Partner	Capital Introduced	Date Introduced	Amount	
M Vijaya Bhaskara Reddy	1,23,25,000	23.12.2013	1,42,00,000 (1,08,25,000)	A credit is in the bank statement of the firm but not in the bank statement of the partner.
Rama Kishore C	75,00,000	21.12.2013	30,00,000	A credit is in the bank statement of the firm and also in the bank statement of the partner. However, the identity of the partner in the form IT return copy not filed.
			45,00,000	This transaction neither reflected in bank statement of partner nor in the bank statement of the firm.

**5.1** The assessee also explained that Ramachandraiah has borrowed money from Vijay Bhaskara Reddy. The said amount of Rs.76 lakhs has been returned to the assessee to Ramachandraiah by Vijay Bhaskara Reddy as follows:

Sl. No.	From	To	Date of transaction	Amount
1	Vijay Bhaskara Reddy	Rama Chandraiah	14.09.2013	Rs. 1,00,000/-
2	Vijay Bhaskara Reddy	Rama Chandraiah	07.10.2013	Rs. 18,00,000/-
3	Vijay Bhaskara Reddy	Rama Chandraiah	13.09.2013	Rs. 17,00,000/-
4	M. Nagamani (wife of Mr. Vijay Bhaskara Reddy)	Rama Chandraiah	12.09.2013	Rs. 20,00,000/-
5	M. Nagamani (wife of Mr. Vijay Bhaskara Reddy)	Rama Chandraiah	07.10.2013	Rs. 20,00,000/-
			<b>Total</b>	<b>Rs. 76,00,000/-</b>

**5.2** To support this, assessee filed the bank statement copy of Ramachandraiah wherein the transfer of Rs.1.42 crores to assessee is reflected.

**STATEMENT OF ACCOUNT**

Name : RAMACHANDRAIAH C  
SRI. BALAJI HOLDINGS  
3RD FLOOR BALAJI COMPLEX  
THANISANDRA MAIN ROAD NAGAWARA  
Bangalore  
Date : 25/06/2019 Time : 10:58:05  
Cleared Balance : 17,421.69Cr  
+MOD Bal : 0.00  
Limit : 0.00  
Int. Rate : 3.50 % p.a.  
Statement From : 08/10/2013 to 31/12/2013

STATE BANK OF INDIA  
THANISANDRA BRANCH  
NO 82/2A, THANISANDRA MAIN ROAD  
THANISANDRA BANGALORE  
560077  
Branch Phone :25944032  
IFSC : SBIN0017060  
MICR : 560002226  
Account No.:54055271169  
Product : REGULAR'SB CHQ-INDIVIDUALS  
Currency : INR

E-mail :  
Uncleared Amount : 0.00  
Drawing Power : 0.00  
Nominee Name :  
Page No. : 5

Post Date	Value Date	Details	Chq.No.	Debit	Credit	Balance
		BROUGHT FORWARD :				1280687.80Cr
17/12/13	17/12/13	CAS PRES CHQ	167457	115000.00		1165687.80Cr
17/12/13	17/12/13	SBI BASANT BETONS CHQ TRFR FROM c. ramachandraiah TRF FR 0054044700368 AT 40745 THANISANDRA	016305		30000.00	1195687.80Cr
17/12/13	17/12/13	CAS CASH CHEQUE PAID TO Paid to SELF AT 40745 THANISANDRA	167462	100000.00		1095687.80Cr
17/12/13	17/12/13	CAS CASH CHEQUE PAID TO Paid to SELF AT 40745 THANISANDRA	167461	80000.00		1015687.80Cr
19/12/13	19/12/13	CAS CASH CHEQUE PAID TO Paid to SELF AT 40745 THANISANDRA	167473	50000.00		965687.80Cr
20/12/13	20/12/13	CHQ DEP CIT	507037		182557.00	1148244.80Cr
23/12/13	23/12/13	DEP TFR RTGS HDFCH1335708876 2 RELIANCECAPITALTD 00000000000 STATE BA AT 40679 DEDICATEDAC RTGS HDFCH1335708876 2 RELIANCECAPITALTD 00000000000 STATE BA CAS CHQ XFER VID TO ENSURE BUILDERS AT 40745 THANISANDRA	167476	14200000.00		143720.80Cr
25/12/13	25/12/13	DEBIT SMS CHARGES FOR ATM		15.00		143705.80Cr
31/12/13	31/12/13	INTEREST CREDIT EXCESS DR IN SB		125.00	29041.00	172746.80Cr
31/12/13	31/12/13					172621.80Cr
		CLOSING BALANCE :				1,72,621.80Cr

**Statement Summary**

Dr. Count 61 Cr. Count 12 2,52,19,049.40 2,14,60,854.00

In Case Your Account Is Operated By A Letter Of Authority/Power Of Attorney Holder, Please Check The Transaction With Extra Care.

\*-- END OF STATEMENT --\*

**5.3** Further, the Id. D.R. made a contention that there was no sources to pay Rs.1.42 crores by Ramachandraiah to present assessee. However, we notice from the above that there was an inflow by way and sum of R.1,31,95,476/- on 23.12.2013 to his bank account. The assessee also filed an evidence for sources for above amount as loan availed from Ramachandraiah from Reliance Commercial Finance Ltd. for the financial year 2014-15 relevant to the assessment year 2015-16 and thereafter, Ramachandraiah issued a cheque for Rs.1.42 crores which is apportioned as follows:

- i. Rs.76,00,000/- towards the repayment of a loan to Mr. Vijaya Bhaskar Reddy & his wife

- ii. An additional hand loan of Rs.21,00,000 provided to Mr. Vijaya Bhaskar Reddy
- iii. And the balance amount of Rs.45,00,000 provided as a loan to Mr. Rama Kishore (My son) which transferred to M/s. Ensure Builders & Developers as a capital contribution on behalf of him.

**5.4** He also filed statement of account of Ramachandraiah from Reliance Commercial Ltd. from 2.12.2013 to 22.9.2014.

Reliance Commercial Finance Limited		Date: 11/07/2024	
Account Statement From 11/07/2000 To 11/07/2024		Page: 1 of 3	
<b>CHANNAMASETTY RAMACHANDRAIAH</b>			
FLAT NO T F 10 BALAJI NEXT BASAPPA LAYOUT 2ND CROSS HENNUR			
BANGALORE - 560043 - Ph:25447313			
Agreement No.	RLLPBAN000256675		
Branch:	BANGALORE	Amt Financed:	14,000,000.00
Product:	LOAN AGAINST PROPERTY	Amt Disbursed:	14,000,000.00
Currency:	INR	Installment Overdue:	0.00
Application No:	ML142915	Pre-EMI Overdue:	0.00
Co Applicant Name:	SIDDESWARI V	TDS Overdue:	0.00
Property Address:	INDUSTRIAL ESCROW SITE NO 02 SY NOS 143 AND 142 KHATA NO 715/A THANISANDRA MAIN ROAD NAGAWARA BANGALORE BANGALORE	Bounce Charges:	0.00
		Other Overdues:	0.00
		Unadjusted Amt:	0.00
		Net Receivable:	0.00
PLR(%)	18.25	Future Installments:	0.00/0
Variance:	-4.25	Installment Paid:	1,643,301.00
ROI(%)	14.00	Principal Paid:	181,612.44
Disbursement Date:	02/12/2013	Interest Paid:	1,461,688.56
Interest Rate Type:	Floating	Pre-EMI Paid:	1,540.00
Tenure:	120	Security Deposit Amount:	0.00
Frequency:	Monthly EMIs	OD accrued current month:	0.00
Instl. Period:	15/01/2014 To 15/12/2023	Amount Sanctioned:	14,000,000.00
Rest:	Monthly		
Number of Adv.EMI:	0		
Linked Agreement No:			
Status:	CLOSED		
Covid_Moratorium:	NO		

  

Date	Value Date	Particulars	Debit / Increased By	Credit / Decreased By	OD Chrgs Due	OD Chrgs Paid	Bounce Chg. Due	Bounce Chg. Paid
02/12/2013	02/12/2013	Amt Financed- Payable	0.00	14,000,000.00	0.00	0.00	0.00	0.00
02/12/2013	02/12/2013	Pf (Mortgages)- Due (Incl. Tax)	157,304.00	0.00	0.00	0.00	0.00	0.00
02/12/2013	02/12/2013	Amount Adjusted	152,304.00	152,304.00	0.00	0.00	0.00	0.00
02/12/2013	02/12/2013	Amount Paid Vide Cheque No.:RTGS Receipt No. ( N.A.)&	152,220.00	0.00	0.00	0.00	0.00	0.00
02/12/2013	02/12/2013	Pmnt Rcvd Vide Cheque No.:600536 Receipt No. ( N.A.)&	0.00	5,000.00	0.00	0.00	0.00	0.00
23/12/2013	15/12/2013	Amount Paid Vide Cheque No.:030024 Receipt No. ( N.A.)&	500,000.00	0.00	0.00	0.00	0.00	0.00
23/12/2013	15/12/2013	Amount Paid Vide Cheque No.:RTGS Receipt No. ( N.A.)&	13,195,476.00	0.00	0.00	0.00	0.00	0.00
31/12/2013	31/12/2013	Interest On Advance Disbursals- Due	1,540.00	0.00	0.00	0.00	0.00	0.00
31/12/2013	31/12/2013	Pmnt Rcvd Vide PDC No.:600595 Receipt No. ( N.A.)&	0.00	1,540.00	0.00	0.00	0.00	0.00
15/01/2014	15/01/2014	Due For Instalment 1	182,589.00	0.00	0.00	0.00	0.00	0.00
15/01/2014	15/01/2014	Pmnt Rcvd Vide PDC No.:600596 Receipt No. ( N.A.)&	0.00	182,589.00	0.00	0.00	0.00	0.00
31/01/2014	15/01/2014	Overdue Interest- Due	0.00	0.00	1,643.00	0.00	0.00	0.00
17/01/2014	17/01/2014	PDC No.:600596 Receipt No. ( N.A.)& Bounced 1*	182,589.00	0.00	0.00	0.00	0.00	0.00
17/01/2014	17/01/2014	Cheque Bouncing Charges- Due	0.00	0.00	0.00	0.00	450.00	0.00
24/01/2014	24/01/2014	Pmnt Rcvd Vide Cheque No.:REP600596 Receipt No. 1&	0.00	182,589.00	0.00	0.00	0.00	0.00
15/02/2014	15/02/2014	Due For Instalment 2	182,589.00	0.00	0.00	0.00	0.00	0.00

ITA No.1093/Bang/2024  
Ensure Builders and Developers, Bangalore  
Page 16 of 18

**Reliance Commercial Finance Limited**  
**Account Statement From 11/07/2000 To 11/07/2024**

Date: 11/07/2024  
Page: 2 of 3

Agreement No. RLLPBAN000256675

Date	Value Date	Particulars	Debit /		Credit /		OD Chrgs		Bounce Chg.	
			Increased By	Decreased By	Due	Paid	Due	Paid		
15/02/2014	15/02/2014	Pmnt Rcvd Vide PDC No.:600599 Receipt No. (N.A.)&	0.00	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00
15/03/2014	15/03/2014	Due For Instalment 3	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
15/03/2014	15/03/2014	Pmnt Rcvd Vide PDC No.:600597 Receipt No. (N.A.)&	0.00	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00
15/04/2014	15/04/2014	Due For Instalment 4	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
15/04/2014	15/04/2014	Pmnt Rcvd Vide PDC No.:600598 Receipt No. (N.A.)&	0.00	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00
15/05/2014	15/05/2014	Due For Instalment 5	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
31/05/2014	15/05/2014	Overdue Interest- Due	0.00	0.00	2,739.00	0.00	0.00	0.00	0.00	0.00
30/05/2014	30/05/2014	Pmnt Rcvd Vide Cheque No.:167555 Receipt No. 1224791&BAN/30052014/0039Rs.184,682.00	0.00	182,589.00	0.00	1,643.00	0.00	0.00	0.00	450.00
15/06/2014	15/06/2014	Due For Instalment 6	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
30/06/2014	15/06/2014	Overdue Interest- Due	0.00	0.00	2,739.00	0.00	0.00	0.00	0.00	0.00
30/06/2014	30/06/2014	Pmnt Rcvd Vide Cheque No.:157098 Receipt No. 1244316&BAN/30062014/0100Rs.188,000.00	0.00	185,261.00	0.00	2,739.00	0.00	0.00	0.00	0.00
15/07/2014	15/07/2014	Due For Instalment 7	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
31/07/2014	15/07/2014	Overdue Interest- Due	0.00	0.00	2,879.00	0.00	0.00	0.00	0.00	0.00
31/08/2014	15/07/2014	Overdue Interest- Due	0.00	0.00	539.00	0.00	0.00	0.00	0.00	0.00
31/07/2014	31/07/2014	Amount Adjusted	2,672.00	2,672.00	0.00	0.00	0.00	0.00	0.00	0.00
04/08/2014	04/08/2014	Pmnt Rcvd Vide Cheque No.:157138 Receipt No. 1246363&BAN/04082014/0043Rs.185,328.00	0.00	179,917.00	0.00	5,411.00	0.00	0.00	0.00	0.00
15/08/2014	15/08/2014	Due For Instalment 8	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
31/08/2014	15/08/2014	Overdue Interest- Due	0.00	0.00	2,921.00	0.00	0.00	0.00	0.00	0.00
19/09/2014	15/08/2014	Overdue Interest- Due	0.00	0.00	2,922.00	0.00	0.00	0.00	0.00	0.00
06/09/2014	06/09/2014	Pmnt Rcvd Vide Cheque No.:FT999 Receipt No. 1246445&BAN/06092014/0038	0.00	13,940,000.00	0.00	0.00	0.00	0.00	0.00	0.00
08/09/2014	08/09/2014	Pmnt Rcvd Vide Cheque No.:030024 Receipt No. DUMMY&BAN/08092014/0030	0.00	500,000.00	0.00	0.00	0.00	0.00	0.00	0.00
08/09/2014	08/09/2014	Cash Rcvd Vide Receipt No.1263282&BAN/08092014/0042 Rs. 21,840.00	0.00	21,840.00	0.00	0.00	0.00	0.00	0.00	0.00
08/09/2014	08/09/2014	Cash Rcvd Vide Receipt No.1263282&BAN/08092014/0043 Rs. 200.00	0.00	200.00	0.00	0.00	0.00	0.00	0.00	0.00
15/09/2014	15/09/2014	Due For Instalment 9	182,589.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
19/09/2014	15/09/2014	Overdue Interest- Due	0.00	0.00	365.00	0.00	0.00	0.00	0.00	0.00
17/09/2014	17/09/2014	Fc Statement Charge- Due (Incl. Tax)	200.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
17/09/2014	17/09/2014	Waived Off Amount At Termination- Payable	0.00	50,428.78	0.00	0.00	0.00	0.00	0.00	0.00
17/09/2014	17/09/2014	Current Month Int.At Termination- Due	10,747.63	0.00	0.00	0.00	0.00	0.00	0.00	0.00
17/09/2014	17/09/2014	Principle Component At Termination- Due	13,818,387.56	0.00	0.00	0.00	0.00	0.00	0.00	0.00
17/09/2014	17/09/2014	Amount Adjusted	200.00	200.00	0.00	0.00	0.00	0.00	0.00	0.00
19/09/2014	19/09/2014	Amount Adjusted	14,512,268.78	14,505,314.78	0.00	6,954.00	0.00	0.00	0.00	0.00
22/09/2014	22/09/2014	Interest Component - Received- Due	311,001.59	0.00	0.00	0.00	0.00	0.00	0.00	0.00
22/09/2014	22/09/2014	Amount Adjusted	311,001.59	311,001.59	0.00	0.00	0.00	0.00	0.00	0.00
<b>TOTAL</b>			<b>44,951,213.15</b>	<b>44,951,213.15</b>	<b>16,747.00</b>	<b>16,747.00</b>	<b>450.00</b>	<b>450.00</b>	<b>450.00</b>	<b>450.00</b>

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CIN : U66010MH2000PLC128301

**5.5** From this, it is crystal clear that Ramachandraiah availed loan from Reliance Commercial Finance Ltd. in the financial year 2014-15 to the tune of Rs.1,39,41,556/- and after using the balance in his account, he transferred a sum of Rs.1.42 crores to present assessee, which was appropriated as discussed above. Thus, in our opinion, the entire amount of deposit to assessee's bank account to the tune of Rs.3,26,25,000/- as came through the banking channel and there is no reason to CIT to sustain addition of Rs.1,83,25,000/- out of the addition made by Id. AO at Rs.3,26,25,000/-.

**5.6** At the cost of repetition, we make it clear that the impugned amount has been contributed by partners whose identity has been proved by providing necessary details like PAN Number, Partnership Deed, Confirmation from the parties and the same has been shown in the balance sheet as their capital contribution from Vijay Bhaskara Reddy at Rs.1,08,25,000/- and Ram Kishore at Rs.75,00,000/- totaling of Rs.1,83,25,000/-. These transactions are genuine transactions as they routed through the bank accounts of which statements are furnished before us as we have examined the movement of funds from C. Ramachandraiah's account to assessee's firm account, which has been appropriated as discussed in para 5.3 of this order. There was a doubt in the mind of Id. AO regarding the capacity of C. Ramachandraiah to lend said impugned amount to Vijay Bhaskara Reddy and to support this, assessee filed a copy of bank account for availing of loan of Rs.1,39,41,556/- from Reliance Commercial Finance Ltd. in the financial year 2014-15. Being so, the capacity of Ramachandraiah cannot be doubted.

**5.7** Further, we also place reliance on the judgement of Apex Court in the case of PCIT Vs. Vaishnavadevi Reoils & Solvex reported in (2018) 96 taxmann.com 469 (SC), wherein it was held that Id. AO made additions to assessee's firm income u/s 68 of the Act in respect of capital introduced by one of the partner of the firm, in view of the fact that amount received by assessee firm had been duly reflected

in books of accounts maintained by concerned partner and he had also confirmed the said contribution, impugned addition was to be deleted.

**5.8** Being so, all the above sources were explained as discussed in earlier paras of this order and there is no reason to sustain the addition by the NFAC. Accordingly, the additions of Rs.1,83,25,000/- is deleted.

**6.** In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 18<sup>th</sup> July, 2024

**Sd/-  
(Beena Pillai)  
Judicial Member**

**Sd/-  
(Chandra Poojari)  
Accountant Member**

Bangalore,  
Dated 18<sup>th</sup> July, 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.**