

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

BEFORE
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No.661/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2014-15)

Kanamarlapudi Rajendra Prasad (HUF) Vs. Income Tax Officer,
Kurapati Subba Rao and Co. Ward-1,
7-5-33, Opp.Lane to Gayatri Temple/BIBA Ongole
Ongole
[PAN :AAEHK5941C]

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri K.C.Devdas, AR
राजस्व द्वारा/Revenue by: Shri Rajan Agrawala, DR

सुनवाई की तारीख/Date of hearing: 25 /07/2024
घोषणा की तारीख/Pronouncement on: 14/08/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 28/05/2024 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Kanamarlapudi Rajendra Prasad (HUF) ("the assessee") for the assessment year 2014-15, assessee preferred this appeal.

2. Assessee is a Chartered Accountant by profession in his individual capacity and also a partner in one firm, by name, M/s Kurapati Subba Rao & Co. The Assessing Officer found deposits to the tune of Rs.1.15 crores credited to the bank account of the assessee. The assessee explained that such cash deposited in his bank account pertains to the clients, who

deposited such amounts for the purpose of making payment to the Income Tax Department. According to the Assessing Officer, such usage of bank account by the assessee is not an allowable practice, holding that the assessee failed to declare such deposits as his professional receipts. The Assessing Officer estimated the income of the assessee @8% on the entire Rs.1.15 crores and added a sum of Rs.9.2 lakhs to the income of the assessee. So also , the Assessing Officer disallowed a sum of Rs.11,588/- paid by the assessee to the HDFC bank towards interest, stating that the loan was taken by the assessee as an individual and not as a HUF under the “self-employed professional loan” and since the assessee is HUF the same is not allowable.

3. Assessee preferred appeal and submitted before the CIT(A) that the objective of operating the account with the bank, wherein, the impugned sums were credited was to provide service to this clients and not to make any profit and he has abundant evidence to show that all the amounts that were deposited in his accounts were paid to the tax authorities online and therefore, there is no element of amount involved in his transactions. So also inspite of interest of Rs.11,588/- paid to the HDFC bank, the assessee explained that such loan amount was used for giving loans by HUF, though the loan was obtained in the name of individual under the self-employed professional loan scheme.

4. The Ld.CIT(A) did not consider either of the submissions on the ground that the assessee does not have any professional income in his individual capacity and confirmed the additions.

5. Hence, the assessee filed this appeal contending that there is lot of evidence that was submitted before the authorities, more particularly along with the letters dated 25.02.2022, 21.03.2022 and 05.03.2024. Grievance of the assessee is that inspite of this evidence, establishing beyond reasonable doubt that whatever amounts that were credited to his bank account were within the close proximity of time either on the same day or in a day or two, thereafter paid to the Income Tax Department through net banking in clients’ name. The authorities are not justified in making and maintaining the additions. The Ld.AR drew my attention to

various entries in the enclosure to the letter dated 05.03.2024, wherein, the particulars of cash deposits and tax paid for the financial year 2013-14 was tabulated. As a sample he also explained the process of receiving cash deposits in the bank account and paying the same to the Income Tax Department through enclosure to the letter dated 21.03.2022. He also drew my attention to the copy of ledger in respect of amounts received from clients and tax paid to the department on behalf of the client, which was enclosed as enclosure 1 to the letter dated 25.02.2022.

6. Though the Ld.DR vehemently opposed the arguments advanced on behalf of the assessee, the fact remains that the letters dated 25.02.2022, 21.03.2022 and 05.03.2024 along with the enclosures and full data remains uncontroverted.

7. On a careful consideration of the entries in the tabulated information submitted to the Department through letters stated above, I am convinced that the amounts received by the assessee in his bank account credits were paid to the tax authorities in a day or two and such details are meticulously tabulated in the annexure No.1 enclosed to the letter dated 05.03.2024. In spite of these letters and enclosures, no appreciation of this evidence could be found in the impugned order. As a test case I have seen the entry dated 22.06.2013 at Sl.No.1 in the tabulated information enclosed to the letter dated 05.03.2024 and compared the same with the entry No.1 in the tabulated information enclosed to letter dated 21.03.2022 and also copy of the letter enclosed to the letter dated 25.02.2022. It clearly establishes that the amount that was received on 22.06.2013 was promptly paid to the tax department on the very same day itself and as a matter of fact, all the amounts that were deposited to the credit of the assessee's bank account were found to have been paid to the tax department and the entries I tested are matching. This clearly establishes that there is no element of income derived by the assessee from the amounts received to his bank account and all such amounts were received in cash only to be transferred to the tax department online and there is nothing to disbelieve the statement of the assessee, that it is only a matter of service and not a profitable trade. On this score, I direct the

Assessing Officer to delete the addition made on estimation at 8% on the amounts credited to the account of the assessee.

8. Now coming to the interest paid to the HDFC bank account, the plea taken by the assessee is that though the loan was taken in the individual name of Shri K.Rajendra Prasad, the amount was used for giving loans by the HUF and therefore, the interest expenditure is allowable in the hands of HUF. It is not the case of the revenue that Shri K.Rajendra Prasad in his individual capacity claimed any deduction in respect of the very same amount, so that it could be disallowed in the hands of the HUF. I, therefore, while accepting the plea of the assessee, direct the Assessing Officer to delete this addition.

9. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on this the 14th day of August, 2024.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 14/08/2024
LR

Copy forwarded to:

- 1.Shri Kanamarlapudi Rajendra Prasad (HUF), Kurapati Subba Rao and Co., 7-5-33, Opp.Lane to Gayatri Temple/BIBA, Ongole
- 2.The Income Tax Officer, Ward-1, Ongole.
- 3.The Pr.CIT, Guntur
- 4.DR, ITAT, Hyderabad.
- 5.GUARD FILE

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD