

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

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

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|--------------------------|
| ITA No.1254/Bang/2024 |
| Assessment Year: 2015-16 |

| | | |
|--|------------|--------------------------------|
| Nagalli Nagaraj No.296/a, Ward No.XVIII, Moka Road Gandhi Nagar Ballari 583 101 Karnataka PAN NO : AAQPN9009G | Vs. | ITO Ward-1 & TPS Bellary |
| APPELLANT | | RESPONDENT |

| | | |
|----------------------|---|--|
| Appellant by | : | Shri B.S. Balachandran, A.R. |
| Respondent by | : | Sri Ganesh R. Ghale, Standing Counsel for department |

| | | |
|------------------------------|---|------------|
| Date of Hearing | : | 01.08.2024 |
| Date of Pronouncement | : | 19.08.2024 |

O R D E R

PER SOUNDARARAJAN K., JUDICIAL MEMBER:

This is an appeal filed by the assessee challenging the orders of NFAC dated 30.4.2024 in respect of the assessment year 2015-16.

2. Brief facts of the case are that the assessee is an individual and received rental income and income from money lending business. The assessee is also a partner in two firms and received profit and remuneration. During the year, assessee also received a capital gain by way of sale of plots and mutual funds apart from the commission income from the insurance business. The assessee had not filed the return of income even though he had paid advance taxes of Rs.2,10,000/- on various dates. Therefore, the AO issued a notice u/s 148 of the Act on the ground that the income chargeable to tax has escaped assessment and directed to file the return of income.

The assessee filed the return of income declaring a total income of Rs.33,06,060/-. Thereafter, the AO issued notice u/s 143(2) & 142(1) of the Act for which the assessee filed the replies as well as the documents in support of the same. Finally, the AO issued a show cause notice proposing to increase the income from Rs.33,06,060/- to Rs.49,08,560/-. In spite of the objections filed by the assessee, the AO determined the total income as proposed in the show cause notice by making an addition of Rs.16,02,500/- being the cash deposits made into bank account as unexplained cash credits. The assessee challenged the said order before the Id. CIT(A) and the Id. CIT(A) had dismissed the appeal without considering the submissions of the assessee. Therefore, the present appeal has been filed by the assessee challenging the order of the Id. CIT(A) with the following grounds of appeal:

“1. The impugned assessment order u/s 143 (3) of the Act dated, 04-12-2019 is passed in haste overlooking the material available on record adopting a superficial approach and therefore, the same is liable to be set aside as void.

No VC Hearing.

2.1. The learned AO erred in not giving an opportunity of personal hearing through video conferencing which is a condition precedent for a valid assessment u/s 144B of the Act.

2.2. The learned CIT(A) erred in passing the impugned appellate order in haste without giving an opportunity of personal hearing through video-conference as per the Notification of the Board in No. 139/2021.

3. The learned AO as well as the learned CIT(A) erred in treating the cash deposits of Rs.16,02,500/- as unexplained cash credits u/s 68 of the Act without appreciating that the subject cash receipts are recorded in the books of account and disclosed to tax.

4. The Appellant craves leave to add or delete or modify or revise any ground at the time of hearing before the Hon'ble Tribunal.:

3. At the time of hearing, the Id. A.R. submitted that the cash credits into the bank account are only the amounts received from the sundry debtors as against their balance during the current year. The Id. A.R. further submitted that the list of sundry debtors along with their dues are shown in the previous A.Y i.e. 2014-15 and the said sundry debtors list along with their dues were shown in the opening balance of the current assessment year's books of accounts. He further contended that the closing balance of the sundry debtors for the assessment year 2015-16, after deducting the payments made during the year, was also shown in the books of accounts of the assessee and the balance sheets of both the years also reflected the sundry debtors and their dues as on 31.03.2014 & 31.3.2015. Therefore, the amounts received from the debtors and credited into the bank account, whose names are available during the previous year and also in the current year, cannot be treated as unexplained cash credits u/s 68 of the Act and prayed to allow the appeal.

4. On the other hand, the Id. D.R. submitted that the assessee had not submitted the proof of identity of the sundry debtors and therefore, argued that the orders of the lower authorities are in order and prayed to dismiss the appeal.

5. We have heard the rival submissions and perused the materials available on record. The only dispute involved in this appeal is about the cash deposits made into the bank account of the assessee. The AO treated the same as unexplained cash credits and assessed the same u/s 68 of the Act. As seen from the assessment order as well as from the statements of facts filed by the assessee before this Tribunal, it is clear that the assessee had furnished the names of the sundry debtors from whom he has received the cash as against their balance and therefore, treating the same as unexplained cash credits u/s 68 of the Act is not correct. Further, as seen from the statement of facts filed by the assessee, the balance sheets as on 31.3.2014 and 31.3.2015 are reproduced hereunder:

Balance sheet as on 31.3.2024:

| N. NAGARAJ BALLARI | | | |
|---------------------------------------|------------------------|--------------------------------|------------------------|
| BALANCE SHEET AS ON 31.03.2014 | | | |
| LIABILITIES | Amount | Assets | ← Amount |
| Capital A/c. | 4,60,63,076 | Fixed Assets: | |
| | | As per Details annexed | 2,92,77,613 |
| Loans: | | Investments: | |
| Secured Loans | 2,32,64,245 | As per Details annexed | 1,82,62,046 |
| Current Liabilities: | | Deposits: | |
| Sundry Creditors | 4,30,57,479 | Telephone Deposit | 2,000 |
| Rent deposit | 4,55,000 | Membership deposit with police | |
| Plot advance received: | | Gymkhana | 1,000 |
| D.Sudhakar, Chellekere | 29,29,000 | | |
| Difference in Balance Sheet | 3,404 | Current Assets: | |
| | | Sundry Debtors | 6,48,29,663 |
| | | Cash @ Banks | 32,27,948 |
| | | Cash in hand | 1,71,934 |
| | ₹. 11,57,72,204 | | ₹. 11,57,72,204 |

Balance sheet as on 31.3.2015 showing the sundry debtors at Rs.6,73,72,801/-:

| N. NAGARAJ BELLARY | | | |
|---------------------------------------|-------------------------|--------------------------------|-------------------------|
| BALANCE SHEET AS ON 31.03.2015 | | | |
| LIABILITIES | Amount | Assets | ← Amount |
| Capital A/c. | 4,97,24,693 | Fixed Assets: | |
| | | As per Details annexed | 2,70,74,794 |
| Loans: | | Investments: | |
| Secured Loans | 1,86,83,661 | As per Details annexed | 1,67,91,995 |
| Current Liabilities: | | Deposits: | |
| Sundry Creditors | 4,28,39,509 | Telephone Deposit | 2,000 |
| Rent deposit | 4,55,000 | Membership deposit with police | |
| Difference in Balance Sheet | 3,404 | Gymkhana | 1,000 |
| | | Current Assets: | |
| | | Sundry Debtors | 6,73,72,801 |
| | | Cash @ Banks | 3,09,020 |
| | | Cash in hand | 1,54,657 |
| | Rs. 11,17,06,267 | | Rs. 11,17,06,267 |

5.1 Further, the assessee also furnished the breakup details of the sundry debtors as on 31.3.2014 and 31.3.2015.

Sundry debtors of Rs.6,48,29,663/- as on 31.3.2014:

| N. Nagaraj (2013-14) | | |
|---|-----------------------|--------|
| Door No. 296/A/Ward No. XVIII | | |
| Sundara Palace | | |
| Gandhi Nagar, Moka Road, | | |
| Bellary | | |
| Sundry Debtors | | |
| Group Summary | | |
| 1-Apr-13 to 31-Mar-14 | | |
| Page 1 | | |
| Particulars | Closing Balance | |
| | Debit | Credit |
| D.Sudhakar, Chellekare | 81,28,654.00 | |
| E. Bhadrachalam, Bellary | 70,43,536.00 | |
| H.M. Bhaktavasthala, Bellary | 11,50,000.00 | |
| K.M.Nagaraj, Hospet | 3,54,791.00 | |
| K.M. Veena Nagaraj, Bangalore | 29,03,837.00 | |
| K.M.Veeresh, Hospet | 54,51,668.00 | |
| K.P.Rami Reddy, Bellary | 10,00,000.00 | |
| Mohamed Farooq | 7,00,000.00 | |
| Mohammed Kasim Patel | 17,25,000.00 | |
| M/sBirla Sun Life Insurance Ltd., (Commission) A/c. | 18,926.00 | |
| M/s. DNS Financial Services | 75,00,000.00 | |
| M/s. G.R.R. Shamiyana Suppliers | 10,00,000.00 | |
| M/s. Raja Mahal Fancy Jewellers, Bellary | 1,16,50,000.00 | |
| M/s. Shilpi Soft Solutions (P) Ltd., | 22,96,280.00 | |
| M/s. Sree Ganesh Power System, Bellary | 5,00,000.00 | |
| N. Srinivasulu, Bellary | 58,20,498.00 | |
| P. Geetha, Belgaum | 9,00,000.00 | |
| P.Gopal Setty, Bellary | 10,00,000.00 | |
| P. Khajamodiin | 10,00,000.00 | |
| Shravani Constructions, Hyderabad | 14,26,433.00 | |
| Smt. N. Radha, Bellary | 8,50,000.00 | |
| S. Ramchandra Reddy, Bellary (Site Advance) | 22,42,000.00 | |
| Sri Anjanaathri Fashions, Bellary | 27,324.00 | |
| Sri Anjanaathri Textiles, Bellary | 23,322.00 | |
| Sri Venkateshwara Enterprises, TNGL | 1,17,394.00 | |
| Grand Total | 6,48,29,663.00 | |

Sundry debtors of Rs.6,73,72,801/- as on 31.3.2015:

| N. Nagaraj (2014-15) Door No. 296/A/Ward No. XVIII Sundara Palace Gandhi Nagar, Moka Road, Bellary | | |
|--|-----------------------|--------|
| Sundry Debtors Group Summary 1-Apr-14 to 31-Mar-15 | | |
| Particulars | Closing Balance | |
| | Debit | Credit |
| D.Somashekar, Ballari | 10,00,000.00 | |
| D.Sudhakar, Chellekare | 81,28,654.00 | |
| E. Bhadrachalam, Bellary | 86,17,816.00 | |
| H.M. Bhaktavasthala, Bellary | 8,50,000.00 | |
| K.M.Nagaraj, Hospet | 4,08,010.00 | |
| K.M. Veena Nagaraj, Bangalore | 33,39,412.00 | |
| K.M.Veeresh, Hospet | 60,45,668.00 | |
| K.P.Rami Reddy, Bellary | 10,00,000.00 | |
| K.V. Giridhar, Hindupur | 9,50,000.00 | |
| Mohamed Farooq | 4,41,200.00 | |
| Mohammed Kasim Patel | 12,75,000.00 | |
| M/s. DNS Financial Services | 85,12,500.00 | |
| M/s. G.R.R. Shamiyana Suppliers | 8,20,000.00 | |
| M/s. Raja Mahal Fancy Jewellers, Bellary | 78,62,300.00 | |
| M/s. Shilpi Soft Solutions (P) Ltd., | 1,96,280.00 | |
| M/s. Sree Ganesh Power System, Bellary | 5,00,000.00 | |
| N.Lakshmikanth, Ballari | 10,51,000.00 | |
| N. Srinivasulu, Bellary | 69,83,148.00 | |
| P. Geetha, Belgaum | 9,00,000.00 | |
| P.Gopal Setty, Bellary | 10,00,000.00 | |
| P. Khajamodiin | 8,20,000.00 | |
| Shravani Constructions, Hyderabad | 9,26,433.00 | |
| S.K. Jewels, Ballari | 25,00,000.00 | |
| Smt. N. Radha, Bellary | 9,06,780.00 | |
| S. Ramchandra Reddy, Bellary (Site Advance) | 22,42,000.00 | |
| Sri Anjanaathri Fashions, Bellary | 55,368.00 | |
| Sri Anjanaathri Textiles, Bellary | 41,252.00 | |
| Grand Total | 6,73,72,801.00 | |

5.2 As seen from the balance sheets as well as the details of the sundry debtors, we find that the assessee has a reasonable explanation towards the cash deposits into his bank account. The only defect pointed out by the AO as well as the Id. CIT(AO) is that the assessee had not proved the identity of the parties with necessary ID proofs such as PAN and address and other details. The assessee had demonstrated before us that the sundry debtors are genuine persons and they are not shown for the first time during the current assessment year but they were shown in the last year's books of accounts which was accepted by the AO while making the

assessment for the earlier year and therefore, no doubt can be attributed towards their identity.

5.3 We do not have any doubt about the genuineness of the sundry debtors since the list of sundry debtors as on 31.03.2014 were available before the AO and the AO also accepted the case for the assessment year 2014-15. Further the very same sundry debtors were shown in the opening balance during the assessment year 2015-16. We have also perused the closing balance of the sundry debtors as on 31.03.2014 & 31.03.2015 and found that they were tallied with the cash deposits made into the bank account of the assessee. In view of the above said facts and circumstances we are of the opinion that the invoking of Sec 68 would not arise.

5.4 In respect of the addition made of Rs 1,27,500/,the assessee contended that the cash received on the sale of the property was deposited in to the bank which was also recorded in the sale deed, hence there is no scope for invoking Sec 68 of the Act. We find some force in the arguments of the assessee since everything was clearly explained. We therefore, delete this addition also.

5.5 In respect of the addition of Rs 1,30,000/-the assessee had not submitted any supporting documents before us also and therefore we are not accepting the case of the assessee and confirm the addition made u/s 68 of the Act.

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

Order pronounced in the open court on 19th Aug, 2024

Sd/-
(Chandra Poojari)
Judicial Member

Sd/-
(Soundararajan K.)
Judicial Member

Bangalore,
Dated 19th Aug, 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.**