

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम
IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM “DIVISION” BENCH, VISAKHAPATNAM

(HYBRID HEARING)

श्री के.नरसिम्हा चारी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI K. NARASIMHA CHARY, HON’BLE JUDICIAL MEMBER

&

SHRI S BALAKRISHNAN, HON’BLE ACCOUNTANT MEMBER

आयकर अपीलसं./I.T.A.No.433/VIZ/2024
(निर्धारण वर्ष/ Assessment Year: 2018-19)

Zoyeb Hyderabadwala 27-32-9, Ground Floor 75 Feet Road Visakhapatnam - 530001 [PAN: AAAPZ3387M]	v.	Income Tax officer – Ward – 1 Direct Taxes building MVP Double Road Besides Gayatri College MVP Colony Visakhapatnam - 530017
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri C.Sanjeevarao, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	04.02.2025
घोषणा की तारीख/Date of Pronouncement	:	20.02.2025

आदेश /O R D E R

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal is filed by the assessee against order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre, Delhi [hereinafter in short “Ld.CIT(A)”] vide DIN & Order

No.ITBA/NFAC/S/250/2024-25/1068814844(1) dated 19.09.2024 for the A.Y.2018-19 arising out of the order passed under section 143(3) of the Income Tax Act, 1961 (in short 'Act') dated 05.06.2021.

2. Brief facts of the case are that, assessee filed his return of income on 04.12.2018 admitting a total income of Rs.31,07,860/-. The case was selected for limited scrutiny assessment under the E-assessment Scheme, 2019 on the following issues: -

- i. Verification of genuineness of Expenses
- ii. Unsecured loans

3. Thereafter, notices under section 143(2) and 142(1) of the Act were issued on 18.12.2019 and 11.02.2020 calling for details. Subsequently, show-cause notice was also issued on 29.04.2021. After examining the assessee submissions, Ld. AO issued further notices under section 133(6) of the Act dated 18.12.2020 to the parties in question for verification and seeking evidences for genuineness and creditworthiness of the lenders. However, only three parties submitted their replies. Ld. AO observed that even the three replies received were found to be incomplete and once again he sent a remainder notice under section 133(6) of the Act on 06.01.2021. After careful analysis of the submission of the parties, Ld.AO observed that the assessee has not proved the genuineness and creditworthiness of the parties from whom the

unsecured loans were received. Therefore, the Ld. AO proceeded to frame the assessment by making the following additions: -

i.	Addition under section 68 r.w.s. 115BBE of the Act	Rs.52,99,941/-
ii.	Disallowance of interest under section 37(1) of the Act	Rs.49,000/-
iii.	Disallowance of excess expenses under section 37(1) of the Act	Rs.22,226/-

4. Aggrieved by the order of the Ld. AO, assessee filed an appeal before Ld.CIT(A). Assessee reiterated the similar submissions before Ld. CIT(A). After examining the submissions, Ld. CIT(A) dismissed the appeal of the assessee.

5. Aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising following grounds of appeal: -

"1. That the Learned Commissioner of Income Tax - Appeals ['CIT (A)'] National Faceless Appeal Centre, Delhi has erred on facts and circumstances of the case and in law so far as the first appellate order passed by him is prejudicial to the interest of the Appellant and confirming the demand, ignoring the evidences are bad in law and arbitrary.

2. That the Learned CIT (A) erred in confirming the demand of Rs.60,55,302/- in toto made by the learned AO though the appellant had adduced the evidences in proof of the payments and cash credits.

- a) Confirmed the addition u/s. 68 - Rs.52,99,941/-;*
- b) Disallowance of interest u/s.37(1) - Rs.49,000/-; and*
- c) Disallowance of expenses u/s. 37(1) - Rs.22,226/-*

3. *Each one of the above grounds of appeal is without prejudice to each other.*

4. *That the appellant craves leave to add/alter any of the grounds of appeal on or before the time of hearing.”*

6. Ground No. 1, 3 & 4 are general in nature and needs no adjudication.

7. Ground No. 2 raised by the assessee is relating to the addition made by the Ld. AO for Rs. 60,55,302/-. On this issue, Ld. Authorised Representative [hereinafter “Ld.AR”] argued that assessee has proved the genuineness, creditworthiness and identity of the creditors for unsecured loans. However, Ld.AR contended that the Ld. AO fully relied on non-submission of bank account and return of income from the parties who granted unsecured loans. Ld.AR reiterated that confirmation letters have been provided from the various lenders which is available in the paper book. He therefore pleaded that since the parties has confirmed payment of unsecured loans to the assessee, no addition can be made under section 68 of the Act.

8. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] drew our attention to Para No. 5.3.4 of the order of the Ld. CIT(A) wherein it was observed by the Ld. CIT(A) that the assessee has not provided any cogent evidences in spite of multiple opportunities provided to the assessee. She therefore pleaded that order of the Revenue Authorities be upheld.

9. We have heard both the sides and perused the material available on record and orders of the lower authorities. It is an undisputed fact that the assessee has received unsecured loans from the following parties: -

S.No.	Name of the lender or depositor	PAN	Amount of loan or deposit taken or accepted during the year	Interest paid
1.	Akshay Engineering	EKOPS6093D	1,500,000	
2.	Electromech Engineers	AABFE5162G	2,200,000	
3.	Jumana Qaid Zohar Shahp urwala	AVVPK0881D	700,000	
4.	Mariya Siraj Bhai	AONPS3117D	500,000	
5.	Priyanka Sharma	ASCPD6399R	799,941	39200
6.	Sarada Devi Palod	AIKPP1773F	200,000	9800
7.	Farida Patel		200,000	
8.	TN Enterprises		700,000	

10. However, we find from the observations of the Ld. AO that in response to notice under section 133(6) of the Act only partial information has been submitted by the various parties. Further we also do not agree with the arguments of the Ld.AR that the Ld. AO has not conducted any enquiries. Ld.AO has proceeded based on the replies given by the various parties wherein Ld. AO has recorded his observations party wise in the assessment order. The main contention of the Ld. AO is that the assessee has not proved the genuineness and creditworthiness of the parties by providing various documents as required by the Ld. AO and Ld.CIT(A). The Ld.AR repeatedly argued that the loans were received through banking channels, but has failed to support with documentary evidences beyond doubt to the satisfaction of the Revenue. In the absence of any material available to support the contentions of the assessee,

even before us, stating that the genuineness, identity and creditworthiness of the unsecured loans creditors was established, we find no reason to interfere in the order of the Ld. CIT(A).

11. Further, with respect to the interest payment which was disallowed by the Ld. AO of Rs.49,000/-. Since the unsecured loans were not established to the satisfaction of the Revenue, we do not see any merit in the argument of the Ld.AR for payment of interest on such unsecured loans, and accordingly confirm the order of the Ld. CIT(A) on this issue.

12. Similarly, no documentary evidences have been produced before us with respect to disallowance of expenses for Rs. 22,226/- disallowed under section 37(1) of the Act and hence we do not see any merit in the argument of the Ld.AR thereby dismissing the ground raised by the assessee. Accordingly Ground No.2 raised by the assessee is dismissed.

13. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 20th February, 2025.

Sd/-

(के.नरसिम्हाचारी)

(K.NARASIMHA CHARY)

न्यायिकसदस्य/JUDICIAL MEMBER

Dated: 20.02.2025

Giridhar, Sr.PS

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :-

1. निर्धारिती/ The Assessee : **Zoyeb Hyderabadwala**
27-32-9, Ground Floor
75 Feet Road
Visakhapatnam - 530001
2. राजस्व/ The Revenue : **Income Tax officer – Ward – 1**
Direct Taxes building
MVP Double Road
Besides Gayatri College
MVP Colony
Visakhapatnam – 530017
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

//True Copy//

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam