

IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD "A" BENCH: HYDERABAD

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT  
AND  
SHRI MANJUNATHA G, ACCOUNTANT MEMBER

ITA.No.315/Hyd./2025  
Assessment Year 2012-2013

Laxminarayan Malani, Hyderabad – 500 044. PAN AAUPM0372M (Appellant)	vs.	The Income Tax Officer, Ward-4(1), Hyderabad. Telangana. (Respondent)
---	-----	--

For Assessee :	CA Sridhar Jhawar
For Revenue :	Shri Srikanth Reddy Y. Sr. AR

Date of Hearing :	21.04.2025
Date of Pronouncement :	24.04.2025

**ORDER**

**PER MANJUNATHA G. :**

This appeal has been filed by the assessee against the order dated 27.12.2024, of the learned CIT(A)-National Faceless Appeal Centre [in short the "NFAC"] Delhi, relating to the assessment year 2012-2013.

2. Brief facts of the case are that, the assessment has been reopened u/sec.147 of the Income Tax Act, 1961 [in short "the Act"] in the case of the assessee for the

reasons recorded. As per the information received during the financial year 2011-2012, the assessee had purchased immovable property bearing Doc.No.136/2012 dated 18.01.2012, for a recorded consideration of Rs.42 lakhs. The Assessing Officer further stated that as assessee has not filed return of income for the assessment year 2012-2013 regarding purchase of transaction of Rs.42 lakhs, the source for the purchase of property under consideration remains unexplained. Further, in order to regularise the assessment for the assessment year 2012-2013, notice u/sec.148 of the Act was issued and duly served on the assessee. The Assessing Officer further stated that there is no compliance to the notice issued and no return is filed. In view of non-compliance to the notice issued u/sec.142(1) of the Act, the Assessing Officer completed the assessment u/sec.144 r.w.s.147 of the Act and determined the total income of the assessee at Rs.42 lakhs by making addition of Rs.42 lakhs towards source for the purchase of property as unexplained investment.

3. Being aggrieved by the assessment order, the assessee preferred an appeal before the Tribunal. Before the learned CIT(A), the assessee has filed detailed written submissions on the issue and explained that the assessee has filed return of income for the year under consideration on or before the “due date” for furnishing return of income u/sec.139 of the Act and also filed return of income in response to notice u/sec.148 of the Act. Further, the assessee had also explained source for purchase of property by filing relevant evidences including bank statements to prove that consideration has been paid through proper banking channel. The learned CIT(A) after considering the relevant submissions of the assessee and also taking note of the various reasons given by the Assessing Officer, rejected the explanation of the assessee and set-aside the issue to the file of Assessing Officer in light of provisions of sec.251(1)(a) of the Act with a direction to re-frame the assessment after providing an opportunity of being heard to the assessee.

4. Aggrieved by the order of the learned CIT(A), the assessee is now in appeal before the Tribunal.

5. CA Sridhar Jhawar, Learned Counsel for the Assessee submitted that, the learned CIT(A) has erred in sustaining the addition made by the Assessing Officer towards unexplained investment in purchase of property even though the assessee has filed relevant evidences in response to notice issued u/sec.142(1) of the Act by filing reply on or before 18.11.2019 along with relevant bank statements and proved the source for purchase of property has been explained. Learned Counsel for the Assessee further submitted that the assessee has filed relevant bank statement and as per the bank statement filed by the assessee, the assessee has received loan from Malani Trading Company and Ganesh Chemicals and the same has been paid to Shri B. Vishwas Kumar for purchase of property. Further, the assessee has also received loan from Srikishan Narayandas Malani and the same has been paid to Shri B. Vishwas Kumar. Although, the assessee has filed all evidences, but the Assessing Officer and the learned

CIT(A) ignored the evidences filed by the assessee and made the impugned addition as unexplained investment in purchase of property. Therefore, he submitted that the addition made by the Assessing Officer should be deleted.

6. Shri Srikanth Reddy Y. Sr. AR for the Revenue, on the other hand, supporting the order of the learned CIT(A) submitted that, the Assessing Officer passed best judgment assessment order when the assessee has not filed return of income u/sec.148 of the Act. Further the Assessing Officer has considered relevant details filed by the assessee and stated that the assessee could not substantiate the source for purchase of property. Therefore, in absence of relevant evidences, the Assessing Officer has rightly made the addition towards investment in purchase of property. The learned CIT(A) after considering relevant facts has rightly sustained the addition made by the Assessing Officer. Therefore, he pleaded that the order of the learned CIT(A) should be upheld.

7. We have heard both the parties, perused the material on record and gone through the orders of the

authorities below. The Assessing Officer passed best judgment assessment order u/sec.144 r.w.s.147 of the Act on the ground that the assessee has not filed return of income in response to notice u/sec.148 of the Act and further not filed any details in response to notice issued u/sec.142(1) of the Act. But, the fact remains that, the assessee has filed regular return of income u/sec.139 of the Act and also filed return of income in response to notice issued u/sec.148 of the Act. Further, the assessee had also filed replies and various evidences in response to notice u/sec.142(1) of the Act issued by the Assessing Officer dated 10.11.2019 by filing reply on 18.11.2019. Therefore, the addition made by the Assessing Officer on the ground that assessee has not filed any evidence is totally contrary to facts available on record and cannot be accepted.

8. Having said so, let us come back, whether the assessee was able to explain the source for purchase of property. Admittedly, the assessee has purchased the property for a consideration of Rs.42 lakhs. Further, the entire consideration of Rs.42 lakhs has been paid through

Seven Hills Co-op Urban Bank Ltd., on various dates. The assessee has paid first payment of Rs.21 lakhs on 29.10.2011 by cheque no. 040889 to Shri B. Vishwas Kumar, seller of the property. The source for the above payment is out of Rs.10 lakhs loan received from Malani Trading Company by cheque no. 442732 dated 27.10.2011 and Rs.11 lakhs received from Ganesh Chemicals vide cheque no.442732 dated 27.10.2011. Further, the assessee has paid a sum of Rs.15 lakhs to Shri B. Vishwas Kumar, seller of the property on 26.11.2021 vide cheque no.040891 and the source for the above payment is out of loan received of Rs.15 lakhs from Srikishan Narayandas Malani on 26.12.2011 by cheque. Similarly, the assessee has paid Rs.6 lakhs by cheque no.040892 dated 19.01.2012 to Shri B. Vishwas Kumar, seller of the property and the source for the above payment of Rs.6 lakhs loan received from Srikishan Narayandas Malani on 19.01.2012 by cheque. As per the details filed by the assessee, it is undisputedly clear that the assessee has received amount from three parties by cheque or bank transfer and the same has been paid to Shri B.

Vishwas Kumar, seller of the property for purchase of property. Therefore, we are of the considered view that, the assessee is able to explain the source of investment in purchase of property to the tune of Rs.42 lakhs out of the known source of income including loan borrowed from various persons. To support the contention of the assessee, the assessee has filed relevant bank statements and also confirmations from the parties. All these evidences were filed before the Assessing Officer and the learned CIT(A), but, both the authorities have ignored the evidences filed by the assessee and confirmed the additions towards investment in purchase of property. Therefore, we are of the considered view that, the Assessing Officer and the learned CIT(A) has erred in making addition of Rs.42 lakhs towards investment in purchase of property. Thus, we set-aside the order of the learned CIT(A) and direct the Assessing Officer to delete the addition made towards unexplained investment in purchase of property of Rs.42 lakhs. The grounds of appeal of the assessee are accordingly allowed.

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

Order pronounced in the open Court on 24.04.2025

Sd/-  
[VIJAY PAL RAO]  
VICE PRESIDENT

Sd/-  
[MANJUNATHA G]  
ACCOUNTANT MEMBER

Hyderabad, Dated 24<sup>th</sup> April, 2025

VBP

Copy to

1.	Laxminarayan Malani, 1-1-508, Bakaram, Hyderabad – 500 044.
2.	The Income Tax Officer, Ward-4(1), Signature Towers, Sy.No.6(P) of Kondapur, Sy.No.37(P) of Kothaguda, Opp. Botanical Gardens, Hyderabad – 500 084.
3.	The Pr. CIT (Central), Hyderabad.
4.	The DR ITAT “A” Bench, Hyderabad.
5.	Guard File.

//By Order//

//True Copy//