

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

श्री मंजूनाथ जी., माननीय लेखा सदस्य

एवं

श्री रवीश सूद, माननीय न्यायिक सदस्य

SHRI MANJUNATHA G., HON'BLE ACCOUNTANT MEMBER

AND

SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER

आ.अपी.सं / **ITA No.83/Hyd/2019**
(निर्धारण वर्ष / Assessment Year: 2014-15)

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| Income Tax Officer Ward-2 Nellore | Vs. | Smt.Bathina Srilakshmi D.No.24/161 Shanti Nagar Nellore [PAN: ADAPB3438J] |
| (Appellant) | | (Respondent) |
| निर्धारिती द्वारा / Assessee by: | Shri S.Rama Rao, AR (through hybrid hearing) | |
| राजस्व द्वारा / Revenue by: | Shri D.Praveen, DR | |
| सुनवाई की तारीख / Date of Hearing: | 07/05/2025 | |
| घोषणा की तारीख / Date of Pronouncement: | 16/05/2025 | |

आदेश / ORDER

प्रति रवीश सूद, जे.एम. / PER RAVISH SOOD, J.M.

The present appeal filed by the Revenue is directed against the order passed by the Commissioner of Income Tax (Appeals), ["CIT(A)"], Tirupati dated 26.11.2018, which in turn arises from the assessment order passed by the Assessing Officer ("the AO")

u/s 143(3) of the Income Tax Act, 1961 (“the Act”) dated 30.12.2016.

2. The Revenue has assailed the impugned order on the following grounds of appeal before us:

1. CIT(A) erred in deleting the addition made u/s 68 of Rs.1.83 crores.

2. CIT(A) erred in holding that the identity and credit worthiness of the donor and genuineness of the gift transaction were established.

3. CIT(A) erred in ignoring the facts that neither the donor nor the firm in which she was a partner were assessed to income-tax and that they did not file returns of income upto the A.Y. under consideration and that the firm’s books of accounts were not audited.

4. CIT(A) erred in ignoring the fact that the gift declaration document is a dumb document without even mentioning the relationship between the donor and the donee.

5. CIT(A) erred in ignoring the fact that vide the letter filed before A.O. on 05-12-2015, the assessee had stated that “during the FY.2013-14, a sum of Rs.1,83,00,000/- has been received as cash gifts from others on various occasions and has been offered to tax”, whereas in the appellate proceedings the assessee contended that the gift was received from one person on a single day and that the gift was exempt u/s 56(2)(vii).

6. CIT(A) erred in holding that the gift is exempt u/s 56(2)(vii) ignoring the fact that the assessee himself

admitted the said sum received as income from other sources (and had not claimed it as exempt u/s 56(2)(vii)).

7. CIT(A) erred in deleting the addition made of Rs.1,82,34,150/- towards the cash deficit in the cash book.

8. CIT(A) erred in holding that as the cash gift received was genuine, there was no cash deficit in the books of account.

9. Any other ground that may be urged at the time of hearing.

3. Succinctly stated, the assessee had filed her return of income for the A.Y.2014-15 on 24.09.2014, declaring an income of Rs.2,48,490/-. The return of income was initially processed as such u/s 143(1) of the Act. Subsequently, the case of the assessee was selected for scrutiny assessment u/s 143(2) of the Act.

4. During the course of assessment proceedings, it was observed by the AO that though the assessee as per her cash book had a cash balance of Rs.2,01,83,834/- on 01.03.2014 but had thereafter made certain cash payments exceeding the amount so available with her, viz. (i) cash payment to M/s R R Enterprises on 05.03.2014: Rs.3,83,50,000; (ii) cash deposit in bank account

no. 2719 with KBL on 26.03.2014: Rs.67,983/-. Accordingly, the AO observed that the assessee on 26.03.2014 had a deficit/negative cash balance of Rs. (-) 1,82,34,149/-. As the assessee had failed to come forth with any explanation regarding the aforesaid deficit/negative cash balance of (Rs.1,82,34,150) supra, therefore, the AO held the same as her income from unexplained sources.

5. Apart from that, the AO on a perusal of the books of accounts of the assessee, observed, that she had on 31.03.2014 claimed to have received cash gifts of Rs.1,83,00,000/-. On being queried, the assessee failed to come forth with any explanation. However, the assessee thereafter vide her letter filed with the AO on 05.12.2016, claimed that she had received the aforesaid amounts as cash gifts from “others” on various occasions and had offered the same for tax. Further, the assessee had filed with the AO, self-made unsigned receipt vouchers dated 31.03.2014 stating the receipt of a gift of Rs.1.83 crore (supra). The A.O. observed that the assessee in the computation statement had shown in “Schedule 3”, an amount of Rs.1.83 crore (supra) as

money received u/s 56(2)(vii)(a). The AO was of the view that as the assessee had failed to establish the identity and creditworthiness of the donors, and also the occasion on which the gifts were received by her, therefore, the genuineness of her claim of having received the cash gifts was not proved. The AO held a firm conviction that the assessee's claim of having received the cash gifts was only a colorable device to cover up the negative cash balance disclosed in her books of accounts. It was observed by him that the assessee in the guise of aforesaid gift transactions had introduced in the books of accounts the cash sourced from her unexplained sources. Accordingly, the AO based on his aforesaid deliberations held the amount of Rs.1.83 crores (supra) received by the assessee as an unexplained cash credit u/s 68 of the Act. The AO vide his order u/s 143(3) dated 30.12.2016, after inter alia, making the aforesaid additions determined the income of the assessee at Rs.6,32,81,250/-.

6. Aggrieved, the assessee carried the matter in appeal before the CIT(A).

7. The assessee during the course of the appeal proceedings, had claimed before the CIT(A) that the subject cash gift of Rs.1,83,00,000/- (supra) was received by her on 05.03.2014 from Smt. D. Rajeswaramma, grandmother of her husband. The assessee based on her aforesaid fresh claim assailed the addition of Rs.1.83 crore (supra) that was made by the AO u/s 68 of the Act. It was further stated by the assessee that as the subject amount was received by her from her relative, but was wrongly disclosed as income from other sources, thus, no addition of the same was called for u/s 56(2)(vii)(a) of the Act. Also, the assessee claimed that as she had received the gift of Rs.1.83 crore (supra) from Smt. D. Rajeswaramma on 05.03.2014, which was wrongly posted in the books of accounts on 31.03.2014, therefore, she had sufficient cash in hand available with her to source the payment that was made to M/s RR Enterprises (supra) on the said date i.e 05.03.2014.

8. The CIT(A) based on the aforesaid claim of the assessee called for a “remand report” from the AO.

9. The assessee in the course of remand proceedings, had filed a copy of the gift declaration signed by Smt. D.Rajeswaramma (supra), wherein, she had stated of having given a cash gift of Rs.1.83 crore (supra) to the assessee during the year 2013-14. Also, the assessee had filed a copy of the death certificate of Smt. D. Rajeswaramma (supra), who had expired on 07.03.2016. On being queried about the source from where Smt. D.Rajeswaramma (supra), had made the cash gift, it was the assessee's claim that she had withdrawn cash of Rs.3.50 crores from her "capital account" with the firm, viz. M/s R.R. Estates & Projects, Bangalore, in which, she was a partner. The assessee to fortify her claim had filed with the AO the copy of the "capital account" of Smt. D. Rajeswaramma as appearing in the books of accounts of M/s R.R. Estates & Projects for the year ending 31.03.2014. The AO, however, found certain infirmities in the aforesaid claim of the assessee. It was observed by him that after making the cash withdrawal of Rs.3.5 crores, the "capital account" of Smt. D. Rajeswaramma was reflected at a negative balance i.e. (-) Rs. 2,94,62,693/-. The AO to verify the veracity of

the claim of the assessee that Smt. D.Rajeswaramma (supra) had made cash withdrawals from her “capital account” with M/s R.R. Estates & Projects, Bangalore, called upon the DCIT, Central Circle-1, Bangalore for a copy of the return of income of M/s R.R. Estates & Projects for the A.Y.2014-15, and also to confirm as to whether or not Smt. D. Rajeswaramma (supra) had made a cash withdrawal of Rs.3.5 crores from her “capital account” with the said firm on 05.03.2014. However, the DCIT, Central Circle-1(3), Bangalore informed the A.O. vide his letter dated 18.07.2018 that M/s R.R. Estates & Projects, Bangalore had not filed its return of income for the A.Y.2014-15. The AO based on the aforesaid facts/details collated by him, observed that the claim of the assessee of having received a cash gift of Rs. 1.83 crore (supra) from Smt. D.Rajeswaramma (supra), which in turn was stated to have been sourced out of the cash withdrawal made by the latter from her “capital account” with M/s R.R. Estates & Projects for the year ending 31.03.2014 did not have any sanctity as no return of income was either filed by the said firm nor by the partner, i.e. Smt. D.Rajeswaramma (supra). Accordingly, the AO

vide his “remand report” objected to the veracity of the claim of the assessee of having received a cash gift of Rs.1.83 crore (supra) from Smt. D. Rajeswaramma (supra). Also, the AO drawing support from the fact that both the assessee and M/s R.R. Estates and Projects (PAN: AAKFR7024H) shared the same address in Bangalore, thus, held a firm conviction that the assessee had come up with a concocted story to relate the unexplained cash credits in her books of accounts with the withdrawals made from the aforementioned firm.

10. The CIT(A) after receiving the aforesaid “remand report” of the AO, made available a copy of the same to the assessee to rebut the observations of the AO. Thereafter, the CIT(A) after considering the contentions of the assessee in the backdrop of the “remand report” filed by the AO, found favor with the claim of the assessee of having received a genuine cash gift of Rs.1.83 crore from Smt. D. Rajeswaramma (supra) on 05.03.2014. It was observed by him that as Smt. D.Rajeswaramma had confirmed the gift transaction vide a “declaration” that was filed with the AO in the course of remand proceedings and also had explained the

source from where the amount gifted was sourced from, i.e., withdrawal from her “capital account” with M/s R.R. Estates & Projects, therefore, the AO was not justified to have held the gift transaction based on surmises and conjectures as bogus. Accordingly, the CIT(A) based on his observations directed the AO to delete the addition of Rs.1.83 crores. For the sake of clarity, the observations of the CIT(A) are culled out as under:

B.Srilakshmi, Nellore:

6.4 I have considered the findings of the Assessing Officer in the assessment order and remand report and written submissions of the appellant carefully. The Assessing Officer made an addition of Rs.1,83,00,000/- in the order of assessment on the ground that the appellant had not established the identity of donor, credit-worthiness and genuineness of the gift recorded in the books of accounts. Subsequently, during the course of remand proceedings, the appellant had submitted the declaration of confirmation of gift from D. Rajeshwaramma, the grandmother (i.e. husband's mother's mother), dated 5.3.2014, as under:-

"DECLARATION

I, D. Rajeshwaramma, W/o Sri D.Shankar Reddy, residing at Mudivarthi Village, Nellore District-524137 do hereby solemnly declare and affirm as follows:

1. That out of natural love and affection that I bear towards Ms.Srilakshmi Bathina, residing at #24/161, Shan'hi Nagar, Dargamitta, Nellore-524003, have during the year 2013-14 (detailed herein) given a gift of Rs.1,83,00,000/- (Rupees One Crore Eighty three lakhs only).
2. That the said gift is duly accepted by the said Donee.
3. The donor had lent a sum of Rs.1,83,00,000/- to the donee as gift. Therefore, the said donee shall have the absolute title and ownership in the said gifted sum of Rs.1,83,00,000/- (Rupees One Crore Eighty three lakhs only) and I shall have no right, title or interest therein over the same.
4. I have made the declaration to record the facts of the gift made by me and to avoid any dispute in respect thereof at any future date.
5. That the above statements are true to the best of my knowledge, information and belief.

Declared this the 5th of March, 2014 (05/03/2014).

Witness

Sd/-Donor

Sd/- by two witnesses

I accept the gift as stated above"

Sd/- Donee

6.5 The assessee also furnished the Death Certificate of Smt.D.Rajeshwaramma, who expired on 7.3.2016. The sources of the gifted amount were stated to be received from the withdrawal of the funds from the capital account of Smt.D.Rajeshwaramma, in the partnership firm, M/s.R.R. Estates & Projects, as under:-

R.R.Estates & Projects
 No. 0001, LE Promenade 39, Frazer Town Bengaluru 56005
 Balance Sheet as at 31st March 2014

| Liabilities | Amount(in Rs.) | Assets | Amount(in Rs.) |
|---|--------------------|--|--------------------|
| Capital Account (Refer Schedule 1) | 38,559,995 | Capital Account (Refer Schedule 2) | 80,308,876 |
| Loans (Liability) (Refer Schedule 3) | 219,557,054 | Fixed Assets | 129,500 |
| Current Liabilities (Refer Schedule 4) | 356,700,963 | Current Assets | 422,890,651 |
| | | Loans & Advances (Refer Schedule-5) | 51,611 |
| | | Bank Accounts (Refer Schedule-6) | 14,429,634 |
| | | Cash | 97,007,739 |
| | | Stock of Land (Refer Schedule-7) | 611,518,012 |
| Total | 614,818,012 | Total | 614,818,012 |



R R Estates & Projects

| Dr Capital Account of Chandra Shekar Rao for the year ended 31st March 2014 | | Cr. | |
|---|------------------|-----------------|------------------|
| Particulars | Amount(in Rs.) | Particulars | Amount(in Rs.) |
| To Share of Loss | 1,193 | By Balance b\ d | 5,538,499 |
| To Balance c/d | 5,537,307 | | |
| Total | 5,538,499 | Total | 5,538,499 |

| Dr Capital Account of D Rajeswaramma for the year ended 31st March 2014 | | Cr. | |
|---|-------------------|----------------------|-------------------|
| Particulars | Amount(in Rs.) | Particulars | Amount(in Rs.) |
| " Drawings | 55,000,000 | By Balance b\ d | 5,538,499 |
| " Share of Loss | 1,193 | | |
| | | By Capital Overdrawn | 29,462,693 |
| Total | 35,001,193 | Total | 35,001,193 |

| Dr Capital Account of Indiramma for the year ended 31st March 2014 | | Cr. | |
|--|------------------|-----------------|------------------|
| Particulars | Amount(in Rs.) | Particulars | Amount(in Rs.) |
| To Share of Loss | 1,193 | By Balance b\ d | 5,538,500 |
| To Balance c/d | 5,537,308 | | |
| Total | 5,538,500 | Total | 5,538,500 |

6.6 During the course of remand proceedings, the AR of the appellant Sri K. Srinivasulu appeared before the AO on 25.7.2018 and filed the day book of the firm M/s.R.R. Estates & Firms, Bangalore, for verification. The AO also addressed a letter dated 26.6.2018 to DCIT, Central Circle-1(3), Bangalore, requesting to provide copy of return of income for AY 2014-15 filed by M/s.R.R. Estates & Projects, Bangalore, and also to confirm the withdrawal of cash of Rs.3.5 crores by the partner Smt.D.Rajeshwaramma, on 5.3.2014, as claimed by the assessee. In response, DCIT, Central Circle-1(3), Bangalore, has informed vide letter dated 18.7.2018 that the assessee M/s.R.R. Estates & Projects, Bangalore, has not filed the return of income for AY 2014-15 and replied to the AO of the assessee as under:-

*"Sub: Your request for copy of Income Tax Return & Assessment order for Asst. Year 2014-15 in the case of M/s.R.R. Estates & Projects (PAN: AAKFR7024H) -- Reg
 Ref: Your letter in F.No.Remand Report/ITOM2/NLR/2018-19 dated 26.6.2018.*

Please refer to the above.

As per the record available in this office, no assessment proceedings have been concluded in the assessee's case for Asst. Year 2014-15. On query in E-filing portal, it



is also seen that assessee has not filed any return for Asst. Year 2014-15 (screen shot enclosed). It can also be observed that the assessee has not filed Form-3CD for any of Assessment years. Therefore, the information sought by you is not available for furnishing you the same."

6.7 The AO disbelieved the sources of gift declaration of Rs.1.83 Crores, given by D. Rajeshwaramma, only on the ground that same are not verifiable. I find from the details discussed in the Paras 5.4 to 5.6 of this order, that the AR of the assessee has produced the day book along with capital accounts of the partnership firm M/s.R.R. Estates & Projects, Bangalore, for verification on 25.7.2018. But, the AO simply ignored the documentary evidence of day book, as well as certified capital accounts of the partners of the partnership firm M/s.R.R.Estates & Projects Ltd., which is not tenable. Therefore, the contention of the AO that assessee has introduced cash of Rs.1.67 Crores, into her books of accounts under the guise of gift is not correct. The second contention raised by AO that the appellant had offered the cash gift of Rs.1.83 Crores, as income from other sources u/s.56(2)(vii) in the computation of income and set off against loss, therefore, the subsequent claim of exemption of cash gift for taxation purposes is an afterthought. The said contention raised by the AO was heavily contested by the AR of the appellant on the ground that the appellant inadvertently offered such income in the return of income as income from other sources, believing that loss declared can be allowed to be set off. However, the AR of the appellant vehemently opposed the findings of the AO that the facts of the case should be decided as per the law and assessee should not be penalized for ignorance of law, and pleaded for admission of the claim relying on the decision of the Hon'ble Supreme Court of India in the case of National Thermal Power Co. Ltd., Vs. CIT, 229 ITR 383 (SC), and decision of the Bombay High Court in the case of CIT Vs. Pruthvi Brokers & Shareholders reported in 349 ITR 336 (Bombay). On consideration of the legal position enunciated by the Hon'ble Supreme Court of India and Bombay High Court in the cases cited supra, I am of the considered view that appellant's claim for treating an amount of Rs.1.83 Crores as exempt u/s.56(2)(vii) of the I.T. Act. The plea for rejection of the fresh claim by the AO merely on the basis of conjectures and surmises is not acceptable. Thus in this case, the identity of the donor, the credit-worthiness of the donor and genuineness of the transaction was established by the appellant through



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is also seen that assessee has not filed any return for Asst. Year 2014-15 (screen shot enclosed). It can also be observed that the assessee has not filed Form-3CD for any of Assessment years. Therefore, the information sought by you is not available for furnishing you the same."

6.7 The AO disbelieved the sources of gift declaration of Rs.1.83 Crores, given by D. Rajeshwaramma, only on the ground that same are not verifiable. I find from the details discussed in the Paras 5.4 to 5.6 of this order, that the AR of the assessee has produced the day book along with capital accounts of the partnership firm M/s.R.R. Estates & Projects, Bangalore, for verification on 25.7.2018. But, the AO simply ignored the documentary evidence of day book, as well as certified capital accounts of the partners of the partnership firm M/s.R.R.Estates & Projects Ltd., which is not tenable. Therefore, the contention of the AO that assessee has introduced cash of Rs.1.67 Crores, into her books of accounts under the guise of gift is not correct. The second contention raised by AO that the appellant had offered the cash gift of Rs.1.83 Crores, as income from other sources u/s.56(2)(vii) in the computation of income and set off against loss, therefore, the subsequent claim of exemption of cash gift for taxation purposes is an afterthought. The said contention raised by the AO was heavily contested by the AR of the appellant on the ground that the appellant inadvertently offered such income in the return of income as income from other sources, believing that loss declared can be allowed to be set off. However, the AR of the appellant vehemently opposed the findings of the AO that the facts of the case should be decided as per the law and assessee should not be penalized for ignorance of law, and pleaded for admission of the claim relying on the decision of the Hon'ble Supreme Court of India in the case of National Thermal Power Co. Ltd., Vs. CIT, 229 ITR 383 (SC), and decision of the Bombay High Court in the case of CIT Vs. Pruthvi Brokers & Shareholders reported in 349 ITR 336 (Bombay). On consideration of the legal position enunciated by the Hon'ble Supreme Court of India and Bombay High Court in the cases cited supra, I am of the considered view that appellant's claim for treating an amount of Rs.1.83 Crores as exempt u/s.56(2)(vii) of the I.T. Act. The plea for rejection of the fresh claim by the AO merely on the basis of conjectures and surmises is not acceptable. Thus in this case, the identity of the donor, the credit-worthiness of the donor and genuineness of the transaction was established by the appellant through



documentary evidence, and such claim of gift is also exempt from tax u/s.56(2)(vii) of the I.T. Act. Therefore, I hold that addition for an amount of Rs.1.83 Crores made by the AO is not legally correct. Hence, the AO is directed to delete the addition of Rs.1.83 Crores.

11. Apropos the addition of Rs. 1,82,34,150/- made by the A.O, i.e., on account of deficit/negative cash balance in the “books of accounts” of the assessee on 26.03.2014, the CIT(A) observed that now that he had accepted the claim of the assessee of having received a cash gift of Rs.1.83 crore (supra) from Smt. D. Rajeswaramma (supra) on 05.03.2014 (which was inadvertently posted in the books of accounts as having been received on 31.03.2014) therefore, the assessee had sufficient cash in hand available with her on the said date. Accordingly, the CIT(A) based on his aforesaid observations directed the AO to delete the addition of Rs.1,82,34,150/-.

12. The revenue being aggrieved with the order of the CIT(A) has carried the matter in appeal before us.

13. We have heard the learned authorized representatives of both parties, perused the orders of the lower authorities and the material available on record.

14. We find that the assessee in her computation of income (filed along with the return of income) had mentioned in “Schedule 3” that she had received an amount of Rs. 1.83 crores, as gifts from others u/s 56((2)(vii)(a), Page No.2 to 3 of APB. Also, it transpires that the assessee vide her letter filed with the AO on 05.12.2016, had stated that during the F.Y.2013-14, a sum of Rs.1.83 crores was received as **cash gift from others** on various occasions and the same has been offered to tax. As the assessee had in the course of assessment proceedings failed to come forth with the requisite details regarding the alleged gift transactions, viz., the identity and creditworthiness of the donors, as well as the occasion on which the gifts were received by her, therefore, the AO for the said reason had held the amount of Rs.1.83 crores (supra) received by the assessee on 31.03.2014 as unexplained cash credit u/s 68 of the Act.

15. Ostensibly, the assessee in the course of the proceedings before the CIT(A) had come up with a new set of facts, viz. (i) the cash gift of Rs.1.83 crore (supra) was received by her from Smt. D. Rajeswaramma, i.e husbands grandmother; and (ii) that the subject cash gift was actually received by her from Smt. D.Rajeswaramma on 05.03.2014 and was inadvertently posted in the “books of accounts” on 31.03.2014. As observed herein above, the assessee, to substantiate her claim of having received the cash gift of Rs.1.83 crore (supra) from Smt. D. Rajeswaramma (supra), had in the course of the remand proceedings filed with the AO, a “declaration” of the said person, which reads as under:

“DECLARATION

I, D. Rajeswaramma, W/o Sri D.Shankar Reddy, residing at Mudivarthi Village, Nellore District-524137 do hereby solemnly declare and affirm as follows:

- 1. That out of natural love and affection that I bear towards Ms.Srilakshmi Bathina, residing at #24/161, Shanthi Nagar, Dargamitta, Nellore-524003, have during the year 2013-14 (detailed herein) given a gift of Rs.1,83,00,000/- (Rupees One Crore Eighty three lakhs only).*
- 2. That the said gift is duly accepted by the said Donee.*
- 3. The donor had lent a sum of Rs.1,83,00,000/- to the donee as gift. Therefore, the said donee shall have the absolute title and ownership in the said gifted sum of Rs.1,83,00,000/- (Rupees One Crore Eighty three lakhs only) and I shall have no right, title or interest therein over the same.*
- 4. I have made the declaration to record the facts of the gift made by me and to avoid any dispute in respect thereof at any future date.*
- 5. That the above statements are true to the best of my knowledge, information and belief.*

Declared this the 5th of March, 2014 (05/03/2014).

Witness sd/-Donor
 Sd/- by two witnesses

I accept the gift as stated above” Sd/- Donee

16. On a careful perusal of the aforesaid “declaration”, it transpires that though the alleged donor had stated to have gifted an amount of Rs.1.83 crores to the assessee, but there is no whisper about the source from where the said substantial amount was gifted. Although the assessee to substantiate the source from where Smt. D. Rajeswaramma (supra) had given the cash gift of Rs.1.83 crores (supra), placed on record, a copy of her “capital account” with M/s R.R. Estates & Projects, Bangalore, i.e. a firm in which she was a partner, wherein, cash withdrawal of Rs.3.50 crores was reflected, but, we are unable to comprehend that as to how the same had summarily been accepted by the CIT(A). We say so, for the reason that on verification by the AO in the course of the remand proceedings from the DCIT, Central Circle-1(3), Bangalore, i.e. the AO of M/s R.R Estates & Projects and Smt. D.Rajeswaramma (supra), information was shared that neither the said firm nor the alleged donor had filed their respective returns of income for the subject year under consideration i.e. A.Y.2014-15. We are unable to fathom that a person who is stated to have given a cash gift of Rs.1.83 crore

(supra) would not have filed her return of income for the year in question. Also, the fact that M/s R.R. Estates & Projects, Bangalore had not filed its return of income further supplements the doubts about the claim of the assessee that she had received a cash gift of Rs.1.83 crores (supra) from Smt .D. Rajeswaramma, who in turn had claimed to have sourced the same out of the withdrawal of Rs.3.5 crores from her “capital account” with the aforementioned concern.

17. Be that as it may, our doubts regarding the veracity of the aforesaid claim of the assessee are further fortified by the fact, that though she had in the course of assessment proceedings claimed to have received the cash gifts of Rs.1.83 crores from “Other persons” on 31.03.2014, but, thereafter in the course of the proceedings before the CIT(A) she had taken a complete shift and stated that not only the cash gift was received by her from Smt. D. Rajeswaramma, i.e., her relative who was not covered within the meaning of section 56((2)(vii)(a) of the Act, but, had also claimed that the said cash gift was received by her on 05.03.2014, i.e in clear contradiction of her earlier claim before

the A.O that she had received the same on 31.03.2014. The aforesaid preponing of the impugned gift transaction, in our considered view, was apparently done with a motive, i.e., for projecting the availability of sufficient cash balance on 05.03.2014 for sourcing the cash payment of Rs. 3,83,50,000/- to M/s R.R Enterprises on 05.03.2014, and thus, nullifying the separate addition that was made by the A.O on account of deficit/negative cash balance of Rs.1,82,34,150 (supra) on the said date i.e 05.03.2014. We are of the firm conviction that not only the claim of the assessee of having received the cash gift of Rs.1.83 crores (supra) from Smt. D. Rajeswaramma is nothing but a colorable device, the brainchild of an afterthought- a concoct story hatched to explain the cash credits in her books of accounts; but also by preponing the receipt of the said amount to 05.03.2014 (supra), as against that as was earlier claimed before the A.O based on the entry in the books of accounts to have been received on 31.03.2014, is nothing but an attempt on her part to undo the negative/deficit cash balance on 05.03.2014 in her books of accounts and seek a consequential deletion of the

separate addition Rs.1,82,34,150 (supra) made by the A.O. We find it incomprehensible that now when the assessee in her documents filed in the course of assessment proceedings, viz. (i) computation statement of income filed along with the return of income, Page 2 to 3 of APB; and (ii) letter dated 05.12.2016 filed with the AO, had specifically in unequivocal terms admitted that the amount of Rs.1.83 crores (supra) was received by her on 31.03.2014, as gifts from others on various occasions, and had further stated that the amount so received was liable to be brought to tax u/s 56(2)(vii)(a) of the Act, then, how the CIT(A) could have lost sight of the said material fact and summarily accepted the new set of self-suiting unsubstantiated facts that were placed by the assessee before him, which we find are in clear contradiction of the admitted facts based on which addition of Rs.1.83 crores (supra) was made by the AO u/s 68 of the Act. We thus, in terms of our aforesaid observations concur with the AO that the amount of Rs.1.83 crores (supra) of cash credited by the assessee in her “books of accounts” on 31.03.2014 was sourced out of her unexplained sources u/s 68 of the Act. Resultantly, the

order of the CIT(A) on the aforesaid issue is set aside and the addition of Rs. 1,83,00,000/- made by the AO is confirmed. The **Grounds of appeal Nos. 1 to 6** of the revenue are allowed in terms of our aforesaid observations.

18. Apropos the addition made by the A.O of the deficit/negative cash balance of Rs.1,82,34,150 (supra), we find that the CIT(A) had vacated the same, for the solitary reason, that now when he has approved the claim of the assessee of having received a genuine cash gift of Rs.1.83 crore (supra) from Smt. D. Rajeswaramma (supra) on 05.03.2014, therefore, the availability of the said amount with the assessee on the said date i.e. 05.03.2014 negates the observations of the AO regarding the negative/deficit cash balance in the books of account of the assessee on the said date. As we have set aside the aforesaid observation of the CIT(A), therefore, as a consequence thereto the addition of Rs.1,82,34,150 (supra) i.e. on account of deficit /negative cash balance as per the “cash book” of the assessee on 05.03.2014, which is independent of the addition of Rs. 1,83,00,000/- made by the A.O u/s 68 on account of unexplained

cash credit in her books of accounts on 31.03.2014, resurfaces. Accordingly, we herein set aside the order of the CIT(A) to the extent he had vacated the addition of Rs.1,82,34,150 (supra) and restore the addition made by the AO. The **Ground of appeal No. 7** raised by the revenue is allowed in terms of our aforesaid observations.

19. The **Grounds of appeal Nos. 8 & 9** being general are dismissed as not pressed.

20. Resultantly, the appeal filed by the Revenue is allowed in terms of our aforesaid observations.

16 मई, 2025 को खुली अदालत में सुनाया गया आदेश।

Order pronounced in the Open Court on 16th May, 2025.

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| <p>Sd/- (मंजूनाथ जी) (MANJUNATHA G.) लेखा सदस्य/ ACCOUNTANT MEMBER</p> | <p>Sd/- (रवीश सूद) (RAVISH SOOD) न्यायिक सदस्य/ JUDICIAL MEMBER</p> |
|--|---|

Hyderabad,
Dated 16th May, 2025
##*L.Rama, SPS

ITA No.83/Hyd/2019
Bathina Srilakshmi 

Copy to:

| S.No | Addresses |
|------|--|
| 1 | The Income Tax Officer, Ward-2, Door No.24-2-438, GNT Road, Dargamitta, Syndicate Bank Upstairs, Nellore |
| 2 | Smt.Bathina Srilakshmi, D.No.24/161, Shanti Nagar, Nellore |
| 3 | The Pr.Commissioner of Income Tax, Tirupati |
| 4 | The DR, ITAT Hyderabad Benches |
| 5 | Guard File |

By Order