

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

Before Shri Manjunatha G., Accountant Member
and
Shri Ravish Sood, Judicial Member

आ.अपी.सं /**ITA No.1358/Hyd/2025**
(निर्धारण वर्ष/Assessment Year:2010-11)

Satyanarayana Reddy Cheruku, Warangal. PAN: AAUPC0479M	Vs.	Income Tax Officer, Ward-1, Warangal.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri S. Rama Rao, Advocate	
राजस्व द्वारा/Revenue by:	Ms. Aditi Goyal, Sr. AR	
सुनवाई की तारीख/Date of Hearing:	03/02/2026	
घोषणा की तारीख/Date of Pronouncement:	20/02/2026	

आदेश / ORDER

PER. RAVISH SOOD, J.M:

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income Tax (Appeals)-12, Hyderabad, dated 23/07/2025, which in turn arises from the order passed by the Assessing Officer (for short, "AO") under section 143(3) r.w.s 153C of the Income Tax Act, 1961 (for short, "the Act"), dated 11/12/2017 for the Assessment Year (AY) 2010-11. The assessee has assailed the impugned order of the CIT(A) on the following grounds of appeal:

- “1) The order of learned CIT (A) is erroneous both on facts and in law.
- 2) The learned CIT (A) erred in confirming the action of the Assessing Officer in initiating proceedings u/s 153C of the I.T. Act.
- 3) The learned CIT (A) ought to have seen that no documents relating to the appellant were found with Arihant Educational Society and Pavani Estates during the course of search and seizure operations.
- 4) The learned CIT (A) is not justified in confirming the action of the Assessing Officer in initiating proceedings u/s 153C of the I.T. Act without there being any satisfaction note recorded by the officers assessing the searched party.
- 5) The learned CIT (A) erred in confirming the action of the Assessing Officer in holding that there are some payments related to the admission and an amount of Rs.40 lakhs was paid by the appellant during the assessment year under consideration.
- 6) The learned CIT (A) erred in confirming the action of the Assessing Officer in making the addition of Rs.40 lakhs u/s 69A of the I.T. Act without considering the fact that there is no material belonging to the appellant was found during the course of search and seizure operations.
- 7) The learned CIT (A) erred in not providing copies of the seized documents and also erred in not providing cross examination of the persons whose statements have been considered for the purpose of assessment.
- 8) The learned CIT (A) ought to have seen that the notice u/s 153C was issued after a period of 6 years on 17.04.2017 and, therefore, the notice is not valid and the assessment is consequently not valid.
- 9) Any other ground/grounds that may be urged at the time of hearing.”

2. Succinctly stated, the assessee had filed his return of income for AY 2010-11 on 25/03/2011, declaring an income of Rs.2,68,597/-.

3. Search and seizure proceedings were conducted on 25/07/2013 in the case of M/s. Arihant Education Society, Bommakal Village,

Karimnagar and Pavani Estates, Liberty Road, Himayatnagar, Hyderabad.

4. During the course of the search and seizure operations certain incriminating documents were found and seized, which, inter alia, revealed that the assessee for the education of his son, viz., Sri Ashrit Reddy Cheruku had over and above the prescribed fees of Rs.15 lakhs paid an amount of Rs.40 lakhs to the society, i.e., M/s. Arihant Education Society. On being queried, the assessee submitted that he had only paid an amount of Rs.15 lakhs for the admission of his son against which a receipt was issued to him. In so far the amount of Rs.40 lakhs (supra), the assessee denied of having paid any such amount, i.e., over and above the prescribed fees. The AO did not find favour with aforesaid explanation of the assessee wherein he had denied of having been paid any amount over and above the prescribed fees of Rs.15 lakhs. The AO held a conviction that as the incriminating documents seized in the course of the search and seizure operations referred to the amount of Rs.15 lakhs (supra) that the assessee had admittedly paid towards the admission of his son, therefore, it was incomprehensible as to how he could deny of having paid the amount of Rs.40 lakhs as was mentioned in the same document. Also, the AO was guided by the general perception that the additional fee or capitation fee or whatever name it

was called, was paid in lumpsum at the time of admission and no receipt of the same was provided. Apart from that, the AO was of the view that it was difficult to fathom that anybody would take name of any other person, unless it is directly or indirectly related with any concern. Accordingly, the AO rejected the claim of the assessee that he had not paid the additional amount of Rs.40 lakhs to the educational society for the admission of his son, i.e., over and above the prescribed fee, and made an addition of the same as unexplained cash credit under section 68 of the Act.

5. Aggrieved, the assessee carried the matter in appeal before the CIT(A) but without success.

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

7. We have heard the Learned Authorized Representatives of both parties, perused the orders of the lower authorities and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by the Learned Authorized Representatives of both parties to drive home their respective contentions.

8. Shri S. Rama Rao, Advocate, Learned Authorized Representative (for short, "Ld. AR") for the assessee, at the threshold of hearing of the appeal, submitted that both the authorities below had grossly erred in law and facts of the case in making/sustaining the addition of Rs.40 lakhs in the hands of the assessee *de hors* any supporting material. Elaborating on his contention, the Ld. AR submitted that the AO except for referring to unsubstantiated document found in the course of the search proceedings conducted on M/s. Arihant Education Society, had drawn adverse inference in the hands of the assessee and without any basis inferred that he had made a payment of Rs.40 lakhs, i.e., over and above the prescribed fee for the admission of his son with the said Education Society, i.e., the searched concern. The Ld. AR submitted that not only the Department had failed to produce any material which would irrefutably evidence that the assessee had made the aforementioned payment, but had also neither confronted the so called incriminating material nor afforded the assessee an opportunity to cross examine the person based on whose statement adverse inferences were being sought to be drawn in his case. The Ld. AR submitted that as the AO had failed to produce any incriminating material which would irrefutably relate the assessee to the incriminating material/document found in the course of the search conducted on the aforementioned party, therefore,

there is no basis for making of the impugned addition of Rs.40 lakhs in his hands. The Ld. AR submitted that even till date the Department had failed to provide to the assessee the details, documents/information that had formed the basis for the abovementioned addition of Rs.40 lakhs made in his case.

9. Per contra, Ms. Aditi Goyal, Learned Senior Departmental Representative (for short, "Ld. Sr-DR") relied upon the orders of the authorities below.

10. We have given thoughtful consideration to the issue in hand in the backdrop of the contentions advanced by the Learned Authorized Representatives of both parties.

11. At the threshold, we may herein observe that it is a matter of fact borne from the orders of the authorities below that the seized document which had formed the very basis for making the impugned addition of Rs.40 lakhs, i.e., the alleged payment by the assessee over and above the prescribed fee to the searched concern, viz., Arihant Education Society was not recovered from the possession or premises of the assessee. Also, it is an admitted fact as can safely be gathered from the assessment order that the AO had not brought any independent or corroborative evidence which would irrefutably establish that the

assessee had actually paid the alleged donation/capitation fee of Rs.40 lakhs. Also, we cannot remain oblivion of the fact that the seized documents based on which the addition had been made in the hands of the assessee was neither confronted to the assessee, nor any opportunity of cross examination of the person based on whose statement such adverse inference was drawn was ever facilitated to him. In our view, drawing of adverse inferences by the AO without making available the documents based on which such adverse inferences were being drawn in the hands of the assessee, and not facilitating the cross examination of the person based on whose statement the assessee was being saddled with the aforementioned addition clearly militates against the principles of natural justice as had been emphasized by the **Hon'ble Supreme Court** in the case of **Andaman Timber Industries vs. CCE (2015) 281 CTR 214 (SC)**.

12. Be that as it may, we find that involving identical facts, wherein adverse inferences resulting to an addition on account of the impugned donation/capitation fees was made in the hands of the assessee had come up before the Tribunal in the case of Shri Rondla Pushpasena Reddy vs. ITO, Ward-1, Warangal, ITA No.257/Hyd/2025, dated 03/10/2025. The Tribunal after deliberating on the various facets of the facts involved in the said identically placed case had vacated the addition

by following the view earlier taken by the “SMC” Bench of the Tribunal in the case of **Shri Venkateswara Prasad Teegalapally vs. ITO, Ward-9(1), Hyderabad** in **ITA No.1610/Hyd/2019, dated 12/04/2022**, observing as under:

9. We have carefully considered the rival submissions and gone through the material available on record. It is evident that the addition in the present case has been made solely on the basis of seized documents found in the premises of Medical College during the course of search under section 132 of the Act. The documents were not recovered from the possession or premises of the assessee. The Ld. AO has not brought on record any independent or corroborative evidence to establish that the assessee actually paid the alleged donation amount of Rs.20,50,000/-. Further, from the assessment order, it is clear that the seized documents were not confronted to the assessee, nor was any opportunity of cross-examination provided. The denial of such opportunity amounts to violation of the principles of natural justice as held by the Hon'ble Supreme Court in *Andaman Timber Industries (supra)*. In this regard, we have also gone through the decision of the SMC Bench of this Tribunal in *Venkata Satya Surya Sree Ranganadha Raju Alluri v. ITO (Supra)*, wherein this Tribunal at para nos.7 & 8 of its order has held as under:

“7. There is a search and seizure carried on in the case of *M/s. Arihant Educational Society* where seized material was found to the extent of Rs. 30.00 lakhs. A statement of the cashier was recorded u/sec. 132(4) and accordingly issued notices to the assessee calling explanation in respect of cash payment made by the assessee relating to the admission of his son into P.G. medical course under management quota. The assessee categorically explained that he has not paid any amount over and above the fee as prescribed by the Government. However, the Assessing Officer not accepted the explanation of the assessee and based on the seized material and statement of the cashier, addition of Rs. 30.00 lakhs was made as unexplained source in the hands of the assessee, the same is confirmed by the Id. CIT(A) in appeal, According to the Id. CIT(A), seized material and statement given by the cashier of the medical college is conclusive proof, hence, addition made by the Assessing Officer was confirmed. I find that when the seized material was found in the premises of the college, it has to be presumed that it belonging to the college. When the addition is proposed in the hands of the assessee and when assessee has specifically denied, the Assessing Officer should have given opportunity to cross-examine the cashier and thereafter he has to pass the assessment order. In this case,

without giving opportunity to the assessee to cross examine the person who has given statement u/sec. 132(4) on behalf of the college, simply addition was made on the basis of seized material, in my view, is not correct. I, therefore, of the opinion that the addition made by the Assessing Officer and confirmed by the Id. CIT(A) cannot survive. Accordingly, addition is deleted.

8. So far as the judgment of the Hon'ble Supreme Court in the case of Andaman Timber Industries (supra), the Apex Court has expressed a view that failure to give the assessee the right to cross-examine witnesses whose statements are relied upon results in breach of principles of natural justice. It is a serious flaw which Officer renders the order a nullity. In the present case, the Assessing based on the seized material and statement given by the cashier of the college addition was made. Therefore, the addition is based on the statement of the third party though assessee has not specifically asked for cross examination, it is the duty of the Assessing Officer to give opportunity to the assessee and allow him crossexamination. In this case, the assessee specifically denied that he has not paid any amount other than the amount paid by him as per the Government prescribed fee. Keeping in view of the principles laid down by the Hon'ble Supreme Court in the above referred to case, the addition made by the Assessing Officer has to be deleted and the order of the Id. CIT(A) has to be cancelled. Accordingly, I find that the order passed by the Id.CIT(A) is not correct therefore same is cancelled.”

10. On perusal of the above, we also notice that in a similar matter, involving the same medical college and identical seized material, the SMC Bench of this Tribunal has already held that no addition can be sustained in the absence of corroborative evidence. Following the said precedent, we are of the view that the addition made in the present case is not sustainable in law. Accordingly, we direct the Ld. AO to delete the addition of Rs.20,50,000/- made in the hands of the assessee.”

13. As the facts and the issue involved in the present case remain the same as were there before the Tribunal in its aforesaid order passed in the case of Shri Rondla Pupshpasena Reddy vs. ITO (supra), therefore, we respectfully follow the same and on the same terms vacate the impugned addition of Rs.40 lakhs made by the AO.

14. Resultantly, the order passed by the CIT(A) is set aside and the appeal filed by the assessee is allowed in terms of our aforesaid observations.

Order pronounced in the open court on 20th February, 2026.

Sd/- (MANJUNATHA G.) ACCOUNTANT MEMBER	Sd/- (RAVISH SOOD) JUDICIAL MEMBER
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Hyderabad,
Dated 20th February, 2026.

***OKK / SPS**

Copy to:

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1	Satyanarayana Reddy Cheruku, 1-7-1037, Huntur Road, Hanmakonda, Warangal, Telangana-506002.
2	Income Tax Officer, Ward-1, Warangal, Telangana.
3	The Pr.CIT, Hyderabad
4	The DR, ITAT Hyderabad Benches
5	Guard File

By Order

Sr. Private Secretary,
ITAT, Hyderabad.