

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “B” (SMC), HYDERABAD**

BEFORE SHRI B. RAMAKOTAIAH, ACCOUNTANT MEMBER

I.T.A. No.	Asst. Year	Appellant	Respondent
1376/Hyd/13	2005-06	Singirikonda Ramulamma, Suryapet [PAN: AJEPS4352A]	Income Tax Officer, Suryapet
1377/Hyd/13	2005-06	Singirikonda Ravinder, Suryapet [PAN: AJEPS4351D]	
1378/Hyd/13	2005-06	Singirikonda Karuna, Suryapet [PAN: APJPS1303H]	
1383/Hyd/13	2005-06	Singirikonda Manasa, Suryapet [PAN: BCQPS9810K]	

For Assessee : Shri S. Rama Rao, AR

For Revenue : Shri K.J. Rao &
Smt U. Minichandran, DRs

Date of Hearing : 06-09-2016

Date of Pronouncement : 14-09-2016

ORDER

These four appeals pertain to the partners of M/s. Mamatha Silk Centre, Suryapet and have common issues. Therefore, these four appeals are clubbed and heard together and decided by this common order. All the said appeals are filed against the order(s) dated 29-08-2013 of the Commissioner of Income Tax (Appeals)-18, Mumbai with camp office at Hyderabad having concurrent jurisdiction over assessee's cases.

2. For the sake of discussion, the appeal in the case of Shri Singirikonda Ravinder in ITA No. 1377/Hyd/2013 is considered in detail.

2.1. Assessee herein is a partner in M/s. Mamatha Silk Centre and other firms at Suryapet. Survey operations u/s. 133A of the Income Tax Act [Act] was conducted in Singirikonda Group of cases on 31-08-2006. A statement of assessee was recorded on 08-09-2006 in which assessee was questioned about findings of the department in the course of survey operations conducted in the business premises. Assessee had declared voluntarily on behalf of himself and his family members, additional taxes of Rs. 15 Lakhs (*sic*). It was also submitted that there are differences in stock of M/s. Mamatha Silk Centre to an extent of Rs. 30 Lakhs and he would explain the sources of investment in M/s. Mamatha Lodge to an extent of Rs. 18 Lakhs. In order to cover up all the issues, he has offered to pay additional taxes on the day of survey, not only in his name but also in the names of his family members. Assessee has originally filed his return of income for the AY. 2005-06 prior to survey on 30-11-2005 declaring income of Rs. 1,04,000/-.

2.2. Consequent to the survey operations, assessee filed a revised return of income admitting an income of Rs. 10,55,100/- and also paying taxes thereon. Assessing Officer (AO) however, did not agree with the revised return filed, as it was filed without any Enclosures/detailed statement of computation of income etc., and issued a defective letter u/s. 139(9) of the Act on 10-07-2007 and treated the same as 'invalid' subsequently. Later, Assessee filed another revised return on 20-12-2007 declaring the originally returned total income of Rs. 1,04,000/-, thereby withdrawing the higher return of income filed in between on 25-09-2006. AO in the course of scrutiny proceedings has found out that assessee has to explain investment to an extent of Rs. 4,60,000/- in the money lending activity, as he has offered interest to an extent of Rs.

56,000/-. Estimating the interest @ 12%, the capital amount was determined at Rs. 4,60,000/- and on the reason that assessee has not explained the sources thereon, an amount of Rs. 4,60,000/- was added. AO has accepted the income as per the original return at Rs. 1,04,000/- and added the additional income offered in the revised return, treated as 'invalid' return by the AO, at Rs. 10,55,100/- and also made an addition of Rs. 4,60,000/-, thereby determining total income at Rs. 16,19,100/-.

3. Assessee contested the same before the Ld. CIT(A). Ld. CIT(A) while analyzing the statements of various proceedings in the group and the excess stock found in the case of a firm, has confirmed the addition of Rs. 10,55,100/- on account of unexplainable assets and since no explanation was given for the source of money in the money lending activity, the addition of Rs. 4,60,000/- as 'unexplained investment' was also confirmed. Accordingly, he dismissed the appeal, without considering assessee's contentions.

4. Before us, Ld. Counsel submitted that assessee has voluntarily filed the revised return which is within the time. The only issue is that the sources and the nature of income admitted had not been stated in the said return. As AO wrongly considered the same as 'invalid return', assessee has to withdraw the same by filing the originally returned income in second revised return which is outside the time limits provided under the Act. It was the submission that there is no basis for making the addition of Rs. 10,55,100/- which was withdrawn and further making an addition of Rs. 4,60,000/- as assessee was offering similar interest incomes

in earlier years also. It was submitted that there is no basis for confirming both the amounts.

5. Ld. DR however, relied on the orders of the CIT(A) to submit that assessee had various investments and has explained the sources by filing a revised return for AY. 2005-06. Therefore, the addition of Rs. 10,55,100/- as well as an amount of Rs. 4,60,000/- both are required to be confirmed on the facts of the case.

6. Ld. Counsel in reply submitted that assessee has offered higher income in the first revised income considering that there are investments and also excess stock found in the firm's hand. However, it was stated that excess stock in the hands of the firm arises in AY. 2007-08, whereas revised returns were filed in the individual hands for AY. 2005-06.

7. I have considered the rival contentions and perused the evidence on record. Even though statements were recorded from assessee enquiring about various investments, assessee has voluntarily offered higher income for AY. 2005-06 at Rs. 10,55,100/- and filing of revised income is within the time limits permitted. Rs. 10,55,100/- includes interest income originally offered at Rs. 1,04,000/-. Income on interest was offered even prior to survey proceedings. Since assessee is already on record, there could be capital in his money lending activity. That arises in earlier year and assessee has sources in earlier years as well. Be that as it may, I do not find any reason for the AO to reject the revised return and also make the same amount as 'addition' and further making an addition of Rs. 4,60,000/- as 'unexplained

investment'. Considering the facts of the case, I am of the opinion that the addition of Rs. 4,60,000/- need not be separately brought to tax when assessee has offered higher income of Rs. 10,55,100/-, which includes the originally offered income of Rs. 1,04,000/-. Considering the duplication of amounts, I am of the opinion that the other two incomes added can be telescoped to the declared income of Rs. 10,55,100/- declared in first revised return. Therefore, AO is directed to accept the total income for the impugned assessment year at Rs. 10,55,100/-, as declared in the revised return which should justify the higher income offered by assessee and also cover the investments made in various other assets, including money lending activity considered by AO. Accordingly, assessee's grounds are partially allowed and AO is directed to accept the revised return offering the total income at Rs. 10,55,100/-.

8. In the result, this appeal of assessee is partly allowed.

ITA No. 1376/Hyd/2013

9. In this appeal, assessee filed her original return of income declaring total income at Rs. 63,876/- on 23-09-2005 much before the survey proceedings and declared additional income after the survey at Rs. 4,50,000/-. As in above case the offered income was added to the originally declared income. AO also disallowed the salary paid to Watchman and interest paid on borrowed funds at Rs. 50,000/- and also further brought to tax deemed rents of Rs. 19,250/-. In spite of assessee's objections, Ld. CIT(A) confirmed all the additions.

10. After considering the rival contentions as discussed earlier in detail in the case of Shri Singirikonda Ravinder in ITA No. 1377/Hyd/2013, I am of the view that the higher income offered at Rs. 4,50,000/- can be accepted and no separate disallowance can be made as was done by the AO. In this case, the total income is to be determined at Rs. 4,50,000/- as per the revised return filed by assessee, telescoping other additions separately made by the AO. AO is directed accordingly. This appeal of assessee is partly allowed.

ITA No. 1378/Hyd/2013

11. In this case, assessee filed her original return of income on 30-11-2005 declaring total income of Rs. 1,05,300/-. In the course of proceedings, on the basis of sworn statement given by her husband in the course of survey proceedings u/s. 133A, assessee declared higher income by filing revised return on 22-09-2006 admitting income of Rs. 6,40,350/-. While making the above addition, AO also added an amount of Rs. 5,75,000/- towards capital on the incomes received on hand loans.

12. Considering the rival contentions and for the reasons stated above in detail in the case of Shri Singirikonda Ravinder in ITA No. 1377/Hyd/2013, I am of the view that the higher income offered at Rs. 6,40,350/- can be accepted and no separate addition be made as was done by the AO. In this case, the total income is to be determined at Rs. 6,40,350/- as per the revised return filed by assessee, telescoping other addition separately made by the AO. AO is directed accordingly. This appeal of assessee is partly allowed.

ITA No. 1383/Hyd/2013

13. In this case, assessee filed her original return of income on 29-03-2006 declaring total income at Rs. 1,05,200/-. Consequent to survey operations, assessee filed revised return declaring total income at Rs. 3,71,850/-. AO treated the said return of income as 'invalid'. AO in the assessment has added the additional income declared to the total income originally offered. It was the contention that the income offered in the revised return includes the original income admitted. Therefore, a separate addition need not be made.

14. Considering the rival contentions and keeping in mind the findings given earlier in detail in the case of Shri Singirikonda Ravinder in ITA No. 1377/Hyd/2013, I am of the view that the higher income offered at Rs. 3,71,850/- can be accepted and no separate addition can be made as was done by the AO. AO is directed to accept the revised return of income offered at Rs. 3,71,850/-. This appeal of assessee is partly allowed.

15. In the result, all the appeals are partly allowed.

Order pronounced in the open Court on 14th September, 2016

Sd/-
(B. RAMAKOTIAH)
ACCOUNTANT MEMBER

Hyderabad, Dated 14th September, 2016

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- 9. D.R. ITAT, Hyderabad.*
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