

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
VISA KHAPATNAM BENCH, VISA KHAPATNAM**

श्री वी. दुर्गा राव, न्यायिक सदस्य एवं  
श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER &  
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER**

आयकर अपीलसं./I.T.A.No.23 & 24/Viz/2018  
(निर्धारण वर्ष/Assessment Year:2013-14 and 2014-15)

Sri Grandhi Sri Venkata Amarendra  
C/o Vaibhav Jewellers  
Main Road  
Eluru  
[PAN : ABIPA7175R]

Vs. Asst.Commissioner of  
Income Tax,  
Central Circle-1  
Visakhapatnam

**(अपीलार्थी/ Appellant)**

**(प्रत्यर्थी/ Respondent)**

आयकर अपीलसं./I.T.A.No.50/Viz/2018  
(निर्धारण वर्ष/Assessment Year:2014-15)

Asst.Commissioner of  
Income Tax,  
Central Circle-1  
Visakhapatnam

Vs. Sri Grandhi Sri Venkata  
Amarendra  
C/o Vaibhav Jewellers  
Main Road  
Eluru  
[PAN : ABIPA7175R]

**(अपीलार्थी/ Appellant)**

**(प्रत्यर्थी/ Respondent)**

निर्धारिती की ओर से/ Assessee by  
राजस्व की ओर से/ Revenue by

: Shri G.V.N.Hari, AR  
: Shri Deba Kumar Sonowal, DR

सुनवाई की तारीख / Date of Hearing

: 04.07.2018

घोषणा की तारीख/Date of Pronouncement

: 21.08.2018

**आदेश / O R D E R**

**Per Bench:**

**ITA Nos. 24/Viz/2018 and 50/Viz/2018**

These cross appeals are filed by the assessee and the revenue respectively against the order of the Commissioner of Income Tax (Appeals) [CIT(A)]-3, Visakhapatnam vide ITA No.211/2016-17/CIT(A)-3/VSP/2017-18 dated 31.10.2017 for the assessment year 2014-15.

2. The assessee raised the following grounds in his appeal :

1. *The order dt.31.10.2017 of the Commissioner of Income (Appeals)-3, Visakhapatnam in ITA No. 211/2016-17/CIT-(A)-3/VSP/2017-18 sustaining additions made by the AO on account of (i) making charges paid to local gold smiths, (ii) unexplained cash credit, (iii) credit card expenses and (iv) agricultural income is contrary to law, the weight of evidence and probabilities of the case.*
2. *The Ld. CIT(A) should have allowed the entire making charges paid to the local gold smiths.*
3. *The Ld CIT(A) erred in adopting rate of gold ornament making charges at Rs. 140 per gram against the payment made at an average rate of Rs.166.66 per gram.*
4. *The LdCIT(A) should have seen that the AO proceeded on the basis of presumptions and surmises in disallowing the amount actually incurred.*
5. *The LdCIT(A) erred in sustaining the addition of the purchases of Rs. 80,91,947 made from Veer Jewellers as unexplained cash credit u/s.68.*
6. *The LdCIT(A) ought to have accepted the confirmation furnished by Veer Jewelers to the AO which was received by the AO after the completion of Assessment.*
7. *The Ld.CIT(A) failed to see that it was the supplier who had not recorded the sale in his books of account and hence the appellant is at no fault.*
8. *The Ld.CIT(A) ought to have allowed the business expenditure met through*

***I.T.A Nos. 23 & 24/Viz/2018 and 50/Viz/2018  
Sri Grandhi Sri Venkata Amarendra, Eluru***

*City Bank and ICICI Bank credit cards in full.*

*9. The Ld.CIT(A) should have seen that agricultural operations were actually conducted by the appellant and should have accepted the income derived.*

*10. For these and others that may be urged at the time of appeal hearing, appellant prays the appeal may be allowed.*

3. Ground Nos. 1 and 10 are general in nature which does not require specific adjudication.

4. Ground Nos. 2, 3 and 4 are related to the addition made by the Assessing Officer(AO) in respect of making charges of gold ornaments. The assessee claimed the expenses at Rs.166.66 per gram against which the AO allowed Rs.82/- per gram and the Ld.CIT(A) adopted @Rs.140/- per gram, hence the Revenue also has filed cross appeal thus, both the appeals are clubbed and heard together and disposed off in common order.

4.1. During the course of assessment proceedings, the AO found that the assessee has debited the following expenses towards making charges of 22ct. gold ornaments:

***I.T.A Nos. 23 & 24/Viz/2018 and 50/Viz/2018  
Sri Grandhi Sri Venkata Amarendra, Eluru***

Gold Smith Salaries	-	Rs.26,27,000
Gold ornaments making charges-		
Local	-	Rs.3,81,46,409
Out Station	-	Rs.19,62,567
		-----
Total	-	Rs.4,27,35,976/-
		-----

4.2. The AO, found that the assessee has debited the gold ornament making charges for outstation goldsmiths at an average rate of Rs.82/- to Rs.150/- per gram. The assessee has given gold weighing 17,780.74 gms for making the ornaments to outstation goldsmiths and incurred the aggregate expenditure of Rs.19,60,567/-, whereas in the case of local goldsmiths the expenditure incurred for making charges was Rs.3,81,46,409/- at an average rate of Rs.166.66/- per gram. The AO called for the details and the assessee produced relevant vouchers, books and found from the information some deficiencies such as self made vouchers, incomplete details, non verification of the payment by authenticated person etc. The assessee did not produce the stock register with the details of gold given to goldsmiths person wise, item wise and the items received back from the goldsmith etc. All the payments were made in cash but not exceeding Rs.20,000/- in each payment. The AO also observed that the payment made in excess of Rs.5,000/- requires affixation of revenue stamp as per

section 2(23) of Indian Stamp Act, 1999, but no such acknowledgement was obtained by the assessee. Most of the vouchers were not verified by the responsible person such as accountant, manager etc. and the addresses of the goldsmiths were not furnished. The AO was of the view that the assessee was unable to prove the expenditure with the credible evidence due to lapses mentioned above. Therefore, the AO has given notice u/s 142(2) with proposal to make the disallowance under the head making charges. The assessee furnished the explanation stating that he is dealing in gold ornaments of various designs, sizes, shapes and weights from nose pin to waist belt which includes nose screws, rings, ear studs, bangles, necklaces with various types of designs, shapes etc.. The amount paid for making charges for gold ornaments depend upon the nature of item, design, shape and skill required for making the item and time taken for making different varieties of gold ornaments. Most of the ornaments require skill for making the intricate designs, the number and size of precious stones studded in the ornaments as per the choice of the customer. Thus, the assessee has submitted that the making charges paid to different goldsmiths for different items cannot be compared and it depends on the variety of items and argued that the assessee has incurred

**I.T.A Nos. 23 & 24/Viz/2018 and 50/Viz/2018**  
**Sri Grandhi Sri Venkata Amarendra, Eluru**

the making charges, maintained the books of accounts which was supported by the vouchers and there is no case for making the addition or disallowing the expenditure incurred. However, the AO analysed the vouchers on random basis and found that even in manual registers, the assessee did not mention name of the ornament maker. The AO obtained monthly sales for 12 months for the financial year 2013-14 and arrived at the average sale value per gram at Rs.3,100/- and arrived at the quantum of gold given to local gold smiths for making the gold ornaments of 2,16,809.759 gms on the basis of the sales as under :

Total sales as per P&L account		Rs.78,85,16,929
Closing Stock	27,87,35,843	
Less : Opening Stock	20,19,97,755	Rs.7,67,38,088
Total value of 22ct gold ornament available for sale		Rs.86,52,55,017

Computation how the weight of the gold arrived :

Total value of 22ct gold ornament available for sale		Rs.86,52,55,017
DIVIDE by average rate per gram adduced by the 'a' as mentioned above [86,52,55,017 /Rs.3.100 ]		2,79,114.522 grams
Less : Weight of 22ct gold ornaments purchased	44,524.021 grams	
Weight of 22ct gold for outstation making charges	17,780.740 grams	62,304.761 grams
Quantity of gold available for local making		2,16,809.759 grams

4.3. The AO adopted the rate of Rs.82/- per gram towards making charges which was the least rate given in the case of non local gold smiths and , accordingly determined the total making charges at Rs.1,77,78,400/- in the case of local goldsmiths as against the amount debited to Profit & Loss account of Rs.3,81,46,409/- and accordingly worked out the excess amount debited to Profit & Loss Account at Rs.2,03,68,009/- as under :

Quantity of gold available for making 22ct gold ornaments	2,16,809.759 grams
Rate adopted as mentioned above	Rs.82/- per gram
Total value of making charges – Local	Rs.1,77,78,400
Less : Local making charges claimed	Rs.3,81,46,409
Excess amount debited	Rs.2,03,68,009

The AO disallowed the sum of Rs.2,03,68,009/- and added back to the income.

4.4. Aggrieved by the order of the AO, the assessee went on appeal before the CIT(A) and reiterated the submissions made before the AO and argued that the AO has disallowed 53% of the total expenditure and adopted the minimum rate of Rs.82/- per gram against average making charges of Rs.166.66/- per gram which is highly unreasonable and arbitrarative. The assessee further submitted that the sum of Rs.82/- per gram was paid for plain items which were machine made and in the case of handmade items,

the average price would be more than Rs.170/-, hence argued that the disallowance made by the AO is without any basis and unsustainable. The Ld.AR further argued before the Ld.CIT(A) that there were some vouchers which were negligible in number without the signature of the goldsmiths and the AO's observation that non production of vouchers was incorrect and far from the truth. Production of local goldsmiths for verification is impossible due to the fact that they are very small people in terms of their working and earning. Non production of goldsmiths cannot be a sole basis for the disallowance of the expenditure. The Ld.CIT(A) observed that the assessee had failed to furnish the complete information with regard to the items manufactured gold smith wise, and identity of all the karigars. Non production of goldsmiths and unsigned vouchers gave the impression in the mind of the AO to hold that the expenditure was not verifiable and may not be genuine. The CIT(A) verified the details filed by the assessee and found that there are 5 grades of rates for making the gold ornaments . They are Rs.82/- to Rs.100/- for Grade-1, Rs.120/- to Rs.125/- for Grade-2, Rs.125/- to Rs.130/- for Grade-3, Rs.130/- to Rs.137/- for Grade4, Rs.140/- to Rs.150/- for Grade 5 and the average price of these ranges would be around Rs.123/- per gram against the average price paid to local smiths at



Rs.166/- per gm. Accordingly, the CIT(A) directed the AO to adopt Rs.140/- per gram instead of Rs.82/- per gram and partly allowed the appeal of the assessee. Aggrieved by the order of the Ld.CIT(A), the assessee filed appeal in ITA No.24/Viz/2018 and the revenue filed cross appeal in ITA No.50/Viz/2018 as mentioned above.

5. During the appeal hearing, the Ld.AR argued that the assessee is getting the items manufactured by goldsmiths both locally and non locally. In the case of non local gold smiths, the assessee had paid minimum of Rs.82/- per gram and the maximum of Rs.150/- per gram depending upon the shape, size and design of the items manufactured by the assessee. Only in one case the minimum charges of Rs.82/- per gram was paid to Veer jewelers of Mumbai and in the remaining cases minimum of Rs.110/- and maximum of Rs.150/- was paid as making charges to non locals also. In the case of local goldsmiths, the assessee had incurred the making charges of Rs.3,81,46,409/- and paid making charges ranging from Rs.82/- and the average was 166.66/- depending on the make and model of the item. The AR further explained that the payments made to goldsmith were paid depending on variety of item, shape, size and design. Lots of ornaments

required to be manufactured handmade with lot of complications, which is time taking and strenuous task. For making the design of complicated items is a tough task which takes away the time, energy and concentration of the Karigars and require more payment. In gold ornaments except plain bangles and chains, all other items require skill, concentration and hard work. Therefore, argued that the making charges depend on the nature of item, design, shape and model. Even in the case of small items, when a specific design is required, making charges would be more than the gold ornament itself. The Ld.AR further argued that the assessee has produced all the evidences before the AO and the entire expenditure is booked in the books of accounts and proper vouchers are maintained by the assessee. There was no defect found in the books of accounts maintained by the assessee. During the appeal hearing, the Ld.AR submitted that the assessee also collected the making charges from the customers in sales and offered the same as income. Therefore, there is no case for any disallowance, hence requested to set aside the order of the Ld.CIT(A) and allow entire expenditure claimed by the assessee.

6. Per contra, the Ld.DR argued that revenue has established that the assessee is making the payment of Rs.82/- per gram towards making charges in the case of non locals and the AO has discussed in detail regarding deficiencies in the vouchers maintained and brought on record the inconsistencies to substantiate the disallowance. The assessee failed to produce the evidence to establish the genuineness of expenditure and the assessee also has not maintained stock register separately therefore argued that the Ld.CIT(A) order be set aside and restore the assessment order.

7. We have heard both the sides and perused the material placed on record. It is undisputed fact that the assessee is engaged in the manufacture and sale of gold ornaments of different sizes, shapes and models with different designs. The assessee is engaged in the sale of nose screw to waist belt, such as nose pins, ear studs, ear rings, chains, necklaces, waist belt etc. Each item consists of different models and designs with a simple plain bangles to complicated designs of items. The plain item such as bangles, chains involve less work which can be made on machine and the making charges would be lesser compared to the complicated man made items of design. The AO adopted the rate of Rs.82/-

per gram which was the least rate of making charges by pointing out certain deficiencies in the vouchers and lack of signatures in small number of vouchers. The said amount Rs.82/- per gram was paid only in one case of non local goldsmith. The assessee argued before the CIT(A) as well as before the Tribunal that number of vouchers which do not contain the signatures were negligible in number. The assessee has maintained the books of accounts and the same were duly audited by the qualified accountant. No defects were raised by the AO except certain deficiencies in the vouchers. The CIT(A) verified the vouchers and found that there are 5 grades of making charges and the average price ranges from Rs.123/- to 160/- per gram. The Ld.CIT(A) directed the AO to adopt Rs.140/- instead of Rs.82/-, accordingly the Ld. CIT(A) confirmed the addition partly. Except few vouchers which does not bear the signature and non maintenance of separate stock register for goldsmiths, no other specific defect was found by the AO. The AO as well as the Ld.CIT(A) did not consider the fact that making charges were also collected from the customers and offered to income. Hence, we are of the view that when assessee is incurring making charges depending on item ranging from Rs.82/- to Rs.166/- per gram and dealing in varieties of gold ornaments and precious stones, it is unjustified

on the part of the AO to adopt the minimum price of Rs.82/- per gram for the entire gold manufactured by the local goldsmiths. Even in non- local goldsmiths the assessee was paying the making charges of Rs.82/- to 150 per gram and average works out to Rs.110/- per gram. Therefore, we do not find any justifiable reason to uphold the disallowance adopting the rate at Rs.82/- per gram without bringing on record any evidence to establish that the making charges for all the items would Rs.82/- per gram. The fact that the making charges would be depending on the item, make, model and design is not under dispute. It is also fact that the sales include the making charges. Before making the disallowance blindly the AO should have analysed the information with regard to the cost of the gold and the making charges collected by the assessee from the sale bills. In case, the AO found some defective vouchers, the amount involved on the said vouchers should be disallowed, but not make universal application of minimum price of making charges to the entire gold ornaments manufactured and sold by the assessee. Though assessee did not accept for the disallowance of expenditure, requested the Ld. CIT(A) to adopt reasonable rate, in view of the facts and circumstances of the case and their inability to produce the local goldsmiths. The Id.AR submitted that production of gold smith is an

herculean task since they loose their daily earning and their customers also effected for timely delivery of the ornaments. The CIT(A) adopted the rate of Rs.140/- per gram against the average price paid to local smiths at Rs.166/- per gram. While giving direction to AO, the Ld.CIT(A) did not consider the fact that the assessee is also collecting the making charges from customers and offered the same as income. Hence, considering the facts and merits of the case we are of the considered opinion that adopting the rate of Rs.150/- per gram as average would be fair and reasonable to meet the ends of justice. Accordingly, we direct the AO to adopt Rs.150/- per gram instead of Rs.140/- per gram as adopted by the Ld.CIT(A). Accordingly, the assessee succeeds partly on this ground and appeal of the revenue is dismissed.

8. Ground No.5,6 and 7 are related to the addition of Rs.80,91,947/- related to purchase of jewellery from Veer Jewellers u/s 68 of the Act. During the assessment proceedings, the AO found that the assessee had purchased jewellery from Veer Jewellers for an amount of Rs.80,81,947/- on 30.07.2013 and paid a sum of Rs.1,47,770/- towards making charges aggregating the total amount at Rs.82,39,717/- and shown the credit

balance of Rs.82,39,717 payable to M/s Veer Jewellers, Mumbai, in their books. The AO caused the enquiries and called for the ledger account copy of the assessee in the books of Veer Jewellers and found that there was a debit balance of Rs.1,46,292/- excluding TDS of Rs.1,478/- resulting in difference of Rs.80,91,947/-. The AO called for the explanation from the assessee and the assessee explained that the gold jewellery purchased from M/s Veer Jewellers was returned to the supplier after few days of purchase. The supplier had accounted the return immediately, but the assessee made both the debit and credit entries in their books subsequently. But the AO did not believe the explanation of the assessee and brought to tax the sum of Rs.80,91,947/- as unexplained cash credit holding that no prudent person would involve in such a huge transaction around Rs.81.00 lakhs in a casual manner and return the precious metal without obtaining the proper receipt.

9. Aggrieved by the order of the AO, the assessee went on appeal before the CIT(A) and the Ld.CIT(A) confirmed the addition made by the AO observing that the entries were made to suit the explanation of the

assessee which is unnatural. Against the order of the Ld.CIT(A), the assessee is in appeal before the Tribunal.

10. During the appeal hearing, the Ld.AR argued that the assessee had purchased the jewellery from Veer Jewellers and made the necessary entries in the books of accounts as per the purchase invoice. Subsequently, the gold ornaments found to be defective hence returned the same to the supplier. However, the assessee could not make the entries in the ledger account as well as in the stock account inadvertently. The Ld.AR further argued that the assessee is dealing in varieties of items and having huge turnover, only after reconciliation, the necessary entries of debit and credit were made in the ledger on 30.03.2015 and no payment was made to Veer Jewellers. Since the liability as well as the stock is declared in the assessee's books, there was no under assessment, and no bogus credit, hence, requested delete the addition and allow the appeal of the assessee.

11. On the other hand, the Ld.DR supported the orders of the lower authorities.



12. We have heard both the parties and perused the material placed on record. As per the assessment order, from the account copy of M/s Veer Jewellers, the AO found that the outstanding balance was at Rs.1,46,292/- against the balance shown by the assessee amounting at Rs.82,39,717/ and the difference was added to income. It was the case of the assessee that he had received the jewellery and made the entries in the books of accounts regarding the purchase of jewellery and taken to the stock. On return of jewellery, the assessee failed to make necessary entries immediately in the stock book as well as the creditors ledger hence there was a difference. Necessary entries were made after reconciliation of books of accounts on 30.03.2015. The assessee stated that the stocks are maintained in the ledger. The assessee has produced books of accounts before the AO and no defect was pointed out by the AO in the books of account in support of the jewellery purchased from M/s Veer Jewellers. The assessee explained that both the stock and liability was declared in the books of accounts, hence no case for making the addition. No other evidence was brought on record by the revenue to controvert the submission made by the assessee with regard to admission of stocks as well as the liability in the assessee's books of accounts.. Since the liability as well as the stock are declared and continued

in the books of accounts, there was no under assessment, and there was no bogus liability to make the addition. Accordingly, we hold that the Ld.CIT(A) erred in upholding the addition made by the AO, therefore, we set aside the order of the Ld.CIT(A) and allow the appeal of the assessee. The appeal of the assessee on this ground is allowed.

13. Ground No.8 is related to the disallowance of credit card expenses made through City Bank and ICICI Bank. The assessee debited a sum of Rs.6,03,630/- for the amount spent through City Bank card and Rs.3,33,040/- in respect of ICICI Bank card, aggregating to Rs.9,36,670/-. The AO disallowed 20% of the expenditure towards personal in nature and made the addition of Rs.1,87,334/-. On appeal, the CIT(A) confirmed the addition. Against the order of the CIT(A), the assessee is in appeal before us.

13.1. Appearing for the assessee, the Ld.AR argued that disallowance of 20% of expenditure is unreasonable and on higher side and argued that most of the expenses were incurred for business purposes and there was

no personal expenditure involved. On the other hand the Ld.DR supported the orders of the Ld.CIT(A).

14. We have considered the facts and merits of the case. The AO disallowed 20% of the expenditure and the Ld.CIT(A) confirmed the addition made by the AO. The assessee failed to establish that the entire credit card expenses were incurred for the purpose of business. Therefore, we do not find any reason to interfere with the order of the Ld.CIT(A) and the same is upheld. The appeal of the assessee on this ground is dismissed.

15. Ground No.9 is related the agricultural income. The AO found that the assessee has admitted agricultural income of Rs.6,23,005/- and claimed the same as exempt. The assessee produced vouchers in respect of sale of tobacco which were self made vouchers. In the absence of evidence like adangal, expenses incurred for cultivation and the details of sales made, the AO rejected the exemption claimed by the assessee and taxed the entire agricultural income.

16. Aggrieved by the order of the AO, the assessee went on appeal before the CIT(A) and the Ld.CIT(A) treated 50% of the receipts as agricultural income and directed the AO to tax the balance amount.

17. We have heard both the parties and perused the material placed on record. As per the Ld.CIT(A) order, the assessee owns 23.33 acres of agricultural land used for cultivation of tobacco. The assessee also produced VRO certificate and there is no dispute that the assessee has been using the land for agricultural purposes and cultivating tobacco. As per the order of the Ld.CIT(A), the income declared by the assessee for 23.33 acres was Rs.6,23,005/- which works out to Rs.26,704/- per acre which was on higher side. The CIT(A) held that the agricultural income may be reasonably estimated at Rs.3,50,000/-. The assessee in his arguments submitted that average yield per acre is 5 candies weighs 227 kgs. 23.33 acres of land held by the assessee is capable of producing 115 candies. The rate per candy was 13,000/- therefore arrived at the total income of Rs.14,95,000/- . After deducting the expenses, the assessee argued that Rs.6,23,005/- is reasonable. The revenue could not controvert the details furnished by the assessee with the tangible evidence. Therefore we hold

that the income of Rs.623005/- from 23.33 acres is reasonable Accordingly, we set aside the order of the Ld.CIT(A) and allow the appeal of the assessee on this ground.

18. In the result appeal of the assessee for the assessment year 2014-15 is partly allowed and the appeal of the revenue is dismissed.

**ITA No.23/Viz/2018**

19. This appeal is filed by the assessee against the order of the Commissioner of Income Tax (Appeals) [CIT(A)]-3, Visakhapatnam vide ITA No.484/2015-16/CIT(A)-3/VSP/2017-18 dated 31.10.2017 for the assessment year 2013-14.

20. Ground No.1 and 5 are general in nature which does not require specific adjudication.

21. Ground No.2 is related to the disallowance of interest. During the assessment proceedings, the AO found that the assessee had advanced a

sum of Rs.1.00crore to M/s Usha Pictures and Financiers on 17.04.2012 at the interest rate of Rs.6% per annum. The AO found that the assessee has taken unsecured loan from parties and paid the interest @18% in most of the cases and claimed such interest as expenditure in the Profit & Loss account. The assessee explained before the AO that the assessee is having substantial interest free funds and the loan was given out of interest free funds, due to business exigencies. Not being convinced with the explanation of the assessee, the AO disallowed a sum of Rs.12,00,000/- representing the difference of interest charged by the assessee on amount advanced to M/s Usha Pictures and Financiers and the interest paid on the loans taken by the assessee and accordingly, made addition of Rs.12,00,000/-.

22. Aggrieved by the order of the AO, the assessee went on appeal before the CIT(A) and the Ld.CIT(A) observed that the assessee has taken Rs.1.00crore from overdraft bank account and transferred it to the personal balance sheet of the assessee. The Ld.CIT(A) further observed that the Bank is charging interest on overdraft account @ 9.96% against the interest charged by the assessee @6%. Thus, the Ld.CIT(A) directed the AO

to restrict the disallowance @4% of interest. Thereby, the Ld.CIT(A) scaled down disallowance of interest.

23. Aggrieved by the order of the CIT(A), the assessee is in appeal before us. During the appeal hearing, the Ld.AR argued that the assessee is having substantial interest free funds from which the assessee had advanced the funds to M/s Usha Pictures and Financiers due to business exigencies and there is no case for disallowing the proportionate interest. Since the amounts are funded from interest free loans, the interest cannot be equated with the interest of unsecured loans. The Ld.AR further argued that the Ld.CIT(A) deleted the addition in the subsequent year on the similar facts, hence argued that there is no case for making the addition.

24. On the other hand, the Ld.DR relied on the order of the Ld.CIT(A).

25. We have heard both the parties and perused the material on record. The assessee has taken unsecured loan of Rs.7,62,50,650/- and advanced an amount of Rs.1.00crore to M/s Usha Pictures and Financiers and charged interest @6%. The assessee submitted that he is having the sum

of Rs.4,05,27,956/- his own funds which does not bear any interest element. For the assessment year, under consideration the assessee has returned the income of Rs.3,07,81,690/- and argued that there is no reason to understate the interest. The AO has not brought on record any evidence to show that the interest free funds were used by the assessee for any other purposes. It was submitted by the assessee that in the subsequent year, the Ld.CIT(A) deleted the addition on similar facts. In the instant case the assessee has demonstrated that, it had interest free funds available in the business and in the subsequent year the and the Ld.CIT(A) has deleted the addition on similar facts. If the interest free surplus funds are available to the assessee, assessee is free to use the funds at his option. Therefore we do not see any reason to make the disallowance on account of difference of interest for diversion of funds. Accordingly, we set aside the order of the Ld.CIT(A) and delete the addition made by the AO. The appeal of the assessee on this ground is allowed.

26. Ground No.3 is related to the amounts paid for giving gifts to customers as business expenditure. The AO found that the assessee has debited Rs.18,23,034/- towards the gifts to customers for business promotion and development. Though the assessee submitted sale bills



marked as gift issued, the assessee did not produce the details of gift items and there was no details of purchases made by the assessee. The payment was also made in cash. Since the assessee failed to produce the relevant vouchers and the details, the AO disallowed the entire amount holding that the expenditure was not laid for business purposes. On appeal, the Ld.CIT(A) allowed 50% of relief. Aggrieved by the order of the Ld.CIT(A) the assessee is in appeal before us.

During the appeal hearing, the Ld.AR strongly supported the claim of the assessee stating that the expenditure was genuine and 50% of the disallowance was highly unreasonable and requested to make reasonable disallowance.

27. On the other hand, the Ld.DR supported the orders of the Ld.CIT(A).

28. We have heard both the parties and perused the material placed on record. It is a fact that the assessee has not furnished any evidence with regard to the details of items purchased with purchase bills etc. for verification and the payments were made in cash. It is also undisputed fact that the assessee gave gift items to the customers to promote the business. The assessee stated before the AO that it is the prevalent practice to give

gift items to the customers which include ladies bags, purses, key chain items etc. We agree that this practice is prevalent in this line of trade and hence, the contention of the assessee cannot be completely ruled out. Keeping in view the claim of the assessee, evidences furnished and the existing practices, we hold that 25% of the disallowance would meet both the ends of justice. Accordingly, we direct the AO to restrict the disallowance to 25% of the expenditure and allow the appeal of the assessee partly.

29. Ground No.4 is related to the income from agricultural operations. The assessee has admitted the agricultural income of Rs.6,23,005/- for the year under consideration and stated to have cultivated the agricultural land of 23.33 acres. This issue has been considered by us in assessee's appeal in ITA No.24/Viz/2018 for the assessment year 2014-15 and allowed the appeal of the assessee. Since the facts are identical, we set aside the orders of the CIT(A) and allow the appeal of the assessee.

30. In the result appeals of the assessee for the assessment year 2013-14 and 2014-15 are partly allowed and the appeals of the revenue are dismissed.

**I.T.A Nos. 23 & 24/Viz/2018 and 50/Viz/2018  
Sri Grandhi Sri Venkata Amarendra, Eluru**

The above order was pronounced in the open court on  
21<sup>st</sup> August, 2018.

Sd/- (डि.एस. सुन्दर सिंह) <b>(D.S. SUNDER SINGH)</b> लेखा सदस्य/ <b>ACCOUNTANT MEMBER</b> न्यायिक सदस्य/ <b>JUDICIAL MEMBER</b> विशाखापटणम / <b>Visakhapatnam</b> दिनांक /Dated : 21.08.2018 L.Rama, SPS	Sd/- (वी.दुर्गा राव) <b>(V. DURGA RAO)</b> लेखा सदस्य/ <b>ACCOUNTANT MEMBER</b> न्यायिक सदस्य/ <b>JUDICIAL MEMBER</b> विशाखापटणम / <b>Visakhapatnam</b> दिनांक /Dated : 21.08.2018 L.Rama, SPS
--	--

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

1. निर्धारिती/ The Assessee-Sri Grandhi Sri Venkata Amarendra, C/o Vaibhav Jewellers, Main Road, Eluru
2. राजस्व/ The Revenue –Asst.Commissioner of Income Tax, Central Circle-1 Visakhapatnam
3. The Pr.Commissioner of Income Tax (Central), Visakhapatnam
4. The Commissioner of Income Tax(Appeals)-3, Visakhapatnam
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR, ITAT, Visakhapatnam
- 6.गार्डफ़ाईल / Guard file

// True Copy //

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, VISAKHAPATNAM