

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "B": HYDERABAD  
(THROUGH VIRTUAL CONFERENCE)**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER  
AND  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 313/H/2017 Assessment Year: 2008-09		
Dy. Commissioner of Income Tax, Circle-3(2), Hyderabad.  (Appellant)	Vs	Kunireddi Srinivas, Hyderabad. PAN - AMAPK 0271H  (Respondent)
Revenue by:	Shri Y.V.S.T. Sai	
Assessee by:	Shri P. Murali Mohana Rao	
Date of hearing:	12/08/2021	
Date of pronouncement:	15/09/2021	

**ORDER**

**PER L.P. SAHU, A.M.:**

This appeal filed by the Revenue is directed against CIT(A) - 3, Hyderabad's order dated 09/12/2016 for AY 2008-09 involving proceedings u/s 143(3) r.w.s. 144 of the Income- Tax Act, 1961; in short "the Act" on the following grounds of appeal:

*"1. The Ld. CIT(A) erred both in law and on facts of the case.*

*2. The Ld. CIT(A) erred in deleting the addition made of Rs 4,29,70,689/- claimed by the assessee towards*

*purchase of plant & machinery, Development expenses etc.*

*3. The Ld. CIT(A) erred in deleting the addition made of Rs. 4,10,23,000/- towards unexplained expenditure stated to have been incurred for purchase of lands in the names of the company M/s SPR Publications Pvt. Ltd. and its directors.*

*4. The Ld. CIT(A) erred in not considering the fact that no evidence could be produced by the assessee in support of the claim that the lands were purchased out of the withdrawals from his band account.*

*5. The Ld. CIT(A) erred in not considering the fact that the assessee could not prove that the amount withdrawn from his bank account towards purchase of the DDs are the same utilized for the purpose of purchase of land.*

*6. The Ld. CIT(A) erred in not considering the fact that the Assessing Officer made the addition of Rs 4,29,70,689/- not suspecting the source of income but - on the ground that the expenditure was not supported by any evidences.*

*7. Any other ground(s) that may be urged at the time of hearing."*

2. Briefly the facts of the case are that the appellant was an independent director in M/s. SPR Publications Pvt.Ltd. He derived salary income from M/s.SPR Publications Pvt Ltd. He did not file his return of income for A.Y.2008-09. There was a survey in the business premises of group company, M/s. SPR Infrastructure India Ltd on 20.7.2011. During the survey, it was noticed that the appellant received huge amounts from M/s. SPR Publications Pvt Ltd

and SPR Infrastructure India Ltd which was deposited in his bank account. Notice u/s 148 was issued asking him to file the return of income, for which there was no response from the appellant.

2.1. M/s. SPR Publications Pvt Ltd and SPR Infrastructure India Ltd were group companies promoted by Sri Suryaprakash Rao. Smt N. Padmaja is the wife of Sri Suryaprakash Rao. She is also managing director in M/s. SPR Publications Pvt Ltd. During the relevant previous year M/s. SPR Publications Pvt Ltd wanted to set up a daily Telegu newspaper namely "SURYA" for which it acquired lands at different places in the combined state of Andhra Pradesh.

2.2 The appellant had bank account with Kotak Mahindra Bank A/c No.737010061383. The deposits/credits appearing in the said bank accounts during F.Y. 2007-08 were Rs, 18,39,93,689/- received through cheques and the details of which were extracted by the CIT(A) in a tabular form at page 3 & 4 of his order. Part of the amounts received were used for the purpose of land at different places, the details of which were extracted by the CIT(A) at pages 4 & 5 of his order. As per the cash flow statement extracted by the CIT(A) at pages 5 & 6 of his order, the total unutilized funds were Rs. 8,39,93,689/-.

2.3 From the above information, the Assessing Officer the AO treated the entire credits in appellant's bank account of Rs. 8,39,93,689/- as income of the assessee by making the following observations in his order:

*(a) That the assessee received an amount of Rs 67,91,618/- from M/s. SPR Publications Pvt Ltd. However the lands purchased in the name of M/s. SPR Publications Pvt Ltd were Rs. 95,23,000/-*

*(b) There were no contributions from Smt. N. Padmaja. However the lands acquired in her name were of Rs.3,15,00,000/-. She is the Managing Director of M/s. SPR Publications Pvt Ltd.*

*(c) Therefore there was siphoning of funds from the accounts of the company in the name of directors.*

*(d) No evidence was submitted towards the development expenses, shed construction and other expenses of Rs.4,29,70,689/-, therefore this amount might have been used for making on money payments in land deals.*

*(e) The company could have paid the amounts directly to the land owners, there was no need to bring in Mr. K. Srinivas in between.*

*(f) The amounts were paid towards land development, installation of machinery etc. etc. through DDs when the 4. same could have been paid directly through cheques. Therefore the entire credits in appellant's bank account of Rs. 8,39,93,689/- were treated as income of the appellant."*

3. When the assessee preferred an appeal before the CIT(A) against the order of the AO, the CIT(A) allowed the appeal of the assessee by observing as under:

*“9. The submissions of the appellant are fairly covered in the grounds of appeal. His emphasis was on the fact that the sources of the amounts were explained, both the companies have confirmed having giving the amounts to Sri K.Srinivas and the Assessing officer made the addition merely on the basis of suspicion and surmise without bringing any corroborative evidence on record. Reliance is placed on following decisions.*

*a) Hon'ble supreme Court in the case of umarcharan Shaw & Bros Vs CIT (37ITR 271).*

*b) Hon'ble Punjab-Haryan High Court in the case of CIT vs Anupam Kapoor (299 ITR 179)*

*c) Hon'ble ITAT-Mumbai in the case of ACIT vs, Shailesh S. Shah (63ITD 53 Mum)*

*d) Hon'b'e IT AT \_ Hyderabad in the case of L Girdhari Lal & Co. vs. ITO(ITA No.516/Hyd/2014)*

*The information on record is carefully considered. Both the companies namely M/s. SPR publications Pvt Ltd and SPR Infrastructure India Ltd have confirmed before the Assessing officer that they have transferred the amount to the account of the appellant for the purpose of acquiring the land/ construction*

*of shed/ installation of machinery/land development etc. This is not disputed by Assessing officer also. The amounts were transferred through cheques to appeal ants account, therefore the source is not in doubt. Though the doubts expressed by the Assessing officer are apparently logical but do not support the view that*

*the money deposited belongs to the appellant, more particularly when such money was used for the purpose of purchase of properties either in the name of M/s. SPR publications Pvt Ltd / SPR Infrastructure India Ltd./ Padmaja, Managing Director of M/s. SPR publications Pvt Ltd. As the sources are explained beyond doubt, such money cannot be assessed in the hands of the appellant. Therefore, the appeal is allowed."*

4. Aggrieved by the order of the CIT(A), the revenue is in appeal before the ITAT.

5. Before us, the ld. DR besides relying on the order of the AO, vehemently argued that the assessee could not provide any documentary evidence with regard to the expenditure incurred for the development expenses as claimed by him and, therefore, the AO has rightly disallowed the expenditure of Rs. 4,29,70,689/-. He further submitted that the assessee could not explain satisfactorily about the transactions undertaken by him for the purchase of properties and the AO examined in detail the transactions done from the bank account of the assessee.

6. The ld. AR, on the other hand relied on the order of CIT(A) and filed a paper book containing pages 1 to 123 consist of bank statements, copy of purchase deeds, copy of land purchase, confirmation of amounts deposited/credited in the bank account of assessee from SPR Infrastructure Pvt. Ltd. and M/s SPR Publications Pvt. Ltd., which were placed before the authorities below as well.

7. We have considered the rival submissions and perused the material on record as well as gone through the orders of revenue authorities and the paper book filed by the Id. AR of the assessee. We find that the confirmation letters were received from M/s SPR Infrastructure Pvt. Ltd. and M/s SPR Publications Pvt. Ltd. We also find that the all the transactions were undertaken by the assessee through banking channels. We find from the assessment order that the AO has not doubted the source of funds received by the assessee through banking channels, but, the AO has added the entire amount as unexplained u/s 69C. In this connection, we refer to the provisions of section 69C, which are as under:

*69C. Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the explanation, if any, offered by him is not, in the opinion of the Assessing Officer, satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year:*

*Provided that, notwithstanding anything contained in any other provision of this Act, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income.*

7.1 From the above section, it is clear that when the assessee incurred any expenditure and no explanation offered about the source of such expenditure or part

thereof, then the amount can be treated as unexplained expenditure. In the impugned case, the assessee has established the source of the funds, which was accepted by the AO. Failing to furnish the details of expenditure could not be presumed that it was an unexplained expenditure. On going through the paper book filed by the assessee, the assessee has submitted sale deeds, confirmations from SPR Infrastructure Pvt. Ltd. and SPR Publications pvt. Ltd. and other financial statements, we find that the addition made by the AO is not correct and the Id. CIT(A) after considering the documentary evidence filed by the assessee has rightly deleted the disallowance made by the AO. Thus, We uphold the order of the CIT(A) in deleting the disallowance made by the AO and dismiss the grounds raised by the assessee on this issue.

8. In the result, appeal of the revenue is dismissed in above terms.

Pronounced in the open court on 15<sup>th</sup> September, 2021.

**Sd/-**  
**(P. MADHAVI DEVI)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(L. P. SAHU)**  
**ACCOUNTANT MEMBER**

Hyderabad, Dated: 15<sup>th</sup> September, 2021.

*kv*



*Copy to :*

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<i>4</i>	<i>Pr. CIT – 3. Hyderabad.</i>
<i>5</i>	<i>ITAT, DR, Hyderabad.</i>
<i>6</i>	<i>Guard File.</i>