

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD 'B' BENCH : Hyderabad**

**(Through Video Conference)**

**Before Shri S.S. GODARA, Judicial Member  
and  
Shri L.P. SAHU, Accountant Member**

**ITA Nos. 525 & 526/Hyd./2019  
Assessment Years: 2007-08 and 2008-09**

Dy.CIT, Circle 8(1)  
Hyderabad

vs.

Smt. Meda Vani  
Hyderabad

[PAN: AGDPJ1365N]

&

**Cross Objection Nos. 20 & 21/Hyd/19  
(In ITA Nos. 525 & 526/Hyd./2019)  
Assessment Years: 2007-08 and 2008-09**

Smt. Meda Vani  
Hyderabad

vs.

Dy.CIT, Circle 8(1)  
Hyderabad

**(Appellant)**

**(Respondent)**

**For Revenue:** Sri R. Mujumdar, DR  
**For Assessee :** Sh. A.V. Raghuram, Adv.

**Date of Hearing :** 07/04/2021 (for ITA 525/H/19 along with  
C.O. 20/H/19)

08/04/2021 (for ITA 526/H/19 along with  
C.O. 21/H/19)

**Date of Pronouncement :** 18/06/2021

**ORDER**

**PER S.S. GODARA, J.M.**

These two revenue's appeals ITA 525/H/19, ITA 526/Hyd/19 and assessee's Cross Objection Nos. 20 & 21/H/19 therein for AY 2007-08 and 2008-09 arise against the CIT(A)-10, Hyderabad's separate orders dated

11.01.2019 and 10.01.2019 passed in case nos. 0114/2015-16 and 0113/2015-16; respectively involving proceedings u/s 143(3) r.w.s 147 of the Income Tax Act, 1961 (in short 'the Act').

Heard both the parties. Case file perused.

2. We advert to Revenue's appeal ITA 525/Hyd/19 seeking to reverse the CIT(A)'s lower appellate findings quashing sec.148/147(vii) being hit by sec.147 first proviso.

Both the learned Representatives took us to the CIT(A)'s detailed discussion to this effect reading as under:

*"4.1 The present appeal is against the reassessment order dt.27.03.2014. Prior to the reassessment order u/s 143(3) r.w.s. 147 dt. 27.03.2014, assessment order u/s. 143(3) dt. 11.11.2009 was passed in the case of the appellant, for A.Y. 2007-08. Vide letter dt. 19.09.2016 of this office, the AO was requested to forward the assessment record in respect of the proceedings u/ s. 143(3) completed- vide order dt. 11.11.2009. Reminders dt. 24.02.2017, 27.02.2017 and 03.03.2017 were issued requiring the said record. A final reminder dt. 13.03.2018 was also issued. Till date, the assessment record is not received. However, as part of the written submissions (paper book), the appellant. furnished copies of the correspondence relating to the proceedings u/s. 143(3) completed vide order dt. 11.11.2009. As mentioned earlier, the paper book of the appellant was forwarded to the AO, for comments.*

*5. The grounds of appeal nos. 2 to 5 relate to the contention that the reassessment proceedings u/s. 147 are not valid in law.*

*6. In the course of the appeal proceedings, the appellant furnished written submissions dt 30.12.2015 and the relevant portion of the same is reproduced, as below.*

*"INITIATION OF PROCEEDINGS U/S 147 : The appellant humbly submits that the proceedings initiated u/s 147 were without jurisdiction, for the following reasons, and as such deserve to be quashed:*

*(i) As submitted in para 1 above, the original assessment was completed u/ s 143(3) and the reassessment notice u/ s 148 of IT Act, 1961 was issued on 20.11.2012, i.e., after completion of four years from the end of the relevant assessment year, and accordingly the Appellant's case is covered by the first proviso to S.147. The said proviso mandates that the AO has to show that he has reason to believe that the income escaped assessment on account of the failure of the assessee to fully and truly disclose all the material facts. Such failure on the part of the assessee is a jurisdictional requirement and accordingly the Assessing Officer, 'at the threshold', has to cross this proviso before proceeding further. To put it differently, a mere recording by the AO that the income escaped assessment is not sufficient but it should also be recorded that such escapement is on account of assessee's failure to disclose the material facts. He should also record, if there is any such failure, as to which particular fact was not disclosed. There is plethora of judicial decisions which lay down that the reassessment proceedings, initiated after four years from the end of the relevant assessment year, would be void if the reasons recorded do not indicate any failure on the part of the assessee. Reliance is placed on the following decisions: .*

*Fenner India Ltd Vs DCIT (2000) 241 ITR 672 (Mad) Dulichand Singhania Vs ACIT (2004) 269 ITR 192 (P&H)*

*Haryana Acrylic Manufacturing Co Vs CIT & Anr (2009) 308 ITR 38 (Del)*

*Vishwanath Prasad Ashok Kumar Saraf Vs CIT & Ors (2010) 327 ITR 190 (All)*

*Global Signal Cables India P Ltd Vs DCIT (2014) 368 ITR 609 (Del)*

*Tao Publishing P Ltd Vs DCIT & Anr (2015) 114 DTR 72 (Bam)*

*Betts India P Ltd Vs DCIT & Ors (2015) 122 DTR 16 (Bam) Sky Diamonds Vs ACIT (2015) 122 DTR 63 (Guj)*

*CIT Vs Schwing Stetter India P Ltd (2015) 122 DTR 289 (Mad) CIT Vs Arvind Remedies Ltd (2015) 124 DTR 36 (Mad)*

*Panchratna Co-op Housing Society Ltd Vs AO & Ors (2015) (Bom)*

*Shree Chalthan Vibhag Khand Udyog Mandi Ltd Vs DCT (2015) 126 DTR 320 (Guj)*

*Kind attention of CIT(A) is drawn to the submissions made in Para 1.2 above which clearly support the Appellant's contention that she had filed all the material facts, touching upon the issues sought to be reopened, during the original assessment proceedings. The (a) Original Return of Income & Statement*

*of Total Income, containing the claim of exemption in respect of gain on sale of agricultural land, filed therewith (Page 40 to 42 of this Paper Book), (b) a detailed explanation concerning the sale of agricultural land, together with necessary documentary evidence, filed during the course of original assessment proceedings in response to the specific query raised by the then AO (Page 43 and 45 to 47 of this Paper Book), (c) copies of bank account statements (Kindly refer to Page 44 of this Paper Book), into which all the gifts/loans, sought to be verified during the reassessment proceedings, were credited (d) Capital Account & Statement of Affairs (Page 52 & 53 of this Paper Book), (e) Affidavit in respect of gift received from the Appellant's brother (Page 48 & 49 of this Paper Book) and (f) the books of account, produced on AO's directions, explaining different sources of amounts received during the year which, in turn, explain the sources for the various investments/ advances and deposits into the bank accounts (Page 51 of this Paper Book), constitute the material facts which were already there on record at the time of original assessment proceedings. It was also evident, from the financial statements filed by the Appellant, that all the advances/investments made by the Appellant were out of interest-free funds and as such no adjustment was required on account of interest-free advances or investments made by her. Thus, there was no failure on her part to furnish all the material facts. In fact, after duly examining the particulars filed, the claims of the Appellant with regard to the exemption on gain from sale of agricultural lands, loans/ gifts/ sources for bank deposits and the taxability of the transaction in respect of Development Agreement with R; v. Nirman P Ltd were accepted by the AO. Further, the reasons recorded by the AO, as communicated by his letter dt.21.10.2013 (Kindly refer to page 57 to 59 of this Paper Book), ex facie do not even remotely suggest such failure on the part of the Appellant. On the contrary, it is evident from such reasons that the reassessment proceedings were initiated based on the material available on record which, in turn, establishes that the said material was already there at the time of original assessment. Thus, firstly there was no failure on the part of the Appellant and secondly the reasons also do not indicate, any such failure. Thus, the notice issued by the AO falls short of the legal mandate, as prescribed under first proviso to S.147, and as such, assumption of jurisdiction thereunder was wholly illegal and unsustainable. '*

*(ii) As submitted above, the original assessment in respect of the assessment year under appeal was completed u/ s 143(3), by the then assessing officer, vide order dt.11.11.2009. Further, during the said assessment proceedings, detailed, information and all the material facts necessary for the assessment were furnished, as required by the Assessing Officer. After considering such details, the original assessment was completed. Thus, all the material facts were ;in record: at the time of original assessment and the subsequent*

*initiation of re-assessment proceedings was based on the same material which was available on record and considered by the A.O. This clearly indicates that the re-assessment was based on the same material which was available on record and considered by the AO. This clearly indicates that the re-assessment was prompted by mere change of opinion, which is not permissible in law. The hon'ble Apex Court held in the case of CIT Vs Kelvinator India Ltd- 320 ITR 561 (SC), that the re-opening on mere change of opinion is bad in law. In this regard, it is humbly submitted that the question as to what constitutes "Change of Opinion" has been examined by the Full Bench of the Hon'ble High Court of Delhi, in the case of CIT Vs Usha International Ltd 348 ITR 485 (Del). The Hon'ble High Court, after elaborate discussion on the principles laid down by various courts on the subject matter, held that for determining whether or not there is "change of opinion ", the fact that the assessment order is silent is not relevant because the assessee has no control over the way the order is written. It was further held, vide para 27 of the said order, that whether or not the Assessing Officer had applied his mind and examined the subject matter, claim etc. depends upon factual matrix of each case and the Assessing Officer can examine a claim or subject matter even without raising a written query. It went on to observe that there can be cases where though the AO has not raised a query, the issue may be so apparent and obvious that, to say that the AO has not formed an opinion with regard to the particular subject matter, claim etc would be contrary and opposed to normal human conduct. In the instant case, as submitted in Para 1.2. above, the Appellant had filed all the material facts, touching upon the issues in respect of which the assessment was sought to be reopened, during the original assessment proceedings and after examining the same, the then AO accepted her claims. Further, it is not as if the assessment record contained a large number of documents or the case involved complicated issues rendering it probable that the AO had missed the issues in question. After considering/ verifying the detailed note on the claim of exemption in respect of gain on sale of agricultural land at Bulkapur, together with necessary documentary evidences, confirmation of gift and books of account, explaining the sources for various investments/advances and deposits into the bank accounts of Appellant, Capital Account, Statement of Affairs and obviously after satisfying himself with the explanations/ evidences furnished by the Appellant, the then AO completed the original assessment. In view of the above submissions, the Appellant submits that the subsequent initiation of reassessment proceedings was based on mere change of opinion and accordingly prays the CIT(A) to hold the order passed consequent on such proceedings to be null and void.*

*(iii) It's a settled principle of law that the power to reopen can be exercised only where there is "reason to believe that income has escaped assessment" but not*

*on the basis of "reason to suspect" or merely to "scrutinize" the return or "verify" the accounts/claims. Reliance is placed on the decisions in the following cases':*

*Inductotherm India P Ltd V DCIT (2013) 258 CTR 61 (Guj)*

*Niui Trading Ltd Vs Union of India & Others (2015) 118 DTR 339 (Bom).*

*Krown Agro Foods P Ltd Vs ACIT (2015) 120 DTR 241 (Del)*

*As can be seen from the reasons communicated by the AO, it was nowhere recorded that any income had actually escaped assessment. Further, the issues mentioned therein, per se, could not lead to a belief that certain income escaped assessment and at best they fall within the realm of suspicion, surmises, and conjectures requiring further verification. In fact, the AO himself admitted that the proceedings were initiated to verify such issues. The relevant portion of the reasons communicated is extracted hereunder: (Kindly see page 59 of this Paper Book)*

*"Therefore, in order to verify the above facts, the case is reopened for the AYs 2007-08, 2008-09 & 2009-10."*

*Thus, the reassessment proceedings were admitted to have been initiated by the AO in order to verify and thereby to clear the cloud of suspicion as to whether the claims of the Appellant: were genuine, which is not permissible in law.*

*(iv) The Hon'ble Supreme Court, in the case of GKN Driveshafts, and various High Courts Laid down' certain principles as to the procedure to be followed on reopening the assessments. As per such principles, whenever an assessee raises objections to the initiation of reassessment proceedings, it's the bounden duty of the AO to deal with such objections and accordingly pass a speaking order before going ahead with the proceedings so initiated. Assumption of jurisdiction, without fulfilling this legal requirement, is unsustainable in law and as such the reassessment order passed deserves to be quashed. Reliance is placed on the decision of the Hon'ble High Court of Bombay in the case of Godrej Industries Ltd Vs DCIT & Ors 126 DTR 417. In the instant case, the AO proceeded with the reassessment proceedings without dealing with the objections raised by the Appellant and accordingly the order passed requires to be set aside.*

*In view of the above submissions, the CIT(A) is requested to declare the proceedings initiated u/ s 147 and the consequent assessment order as null and void ab initio."*

6.1 In the course of the proceedings conducted on 04.01.2019, the AR of the appellant also placed reliance upon the decisions of the Hon'ble Telangana and Andhra Pradesh High Court in the cases of Kohinoor Hatcheries Pvt. Ltd., (2016) 389 ITR 493 and Tecumseh Products India Pvt.Ltd., (2014) 361 ITR 429.

7. After considering the written submissions of the appellant, the AO furnished remand report dt. 20.06.2016 and the same is reproduced, as below.

"This case was received on transfer from ACIT 8(1) on 04.02.2016. This assessee has been asked to submit the evidences vide letter dt. 25.02.2016. The assessee has requested for adjournment of the case to the month of April 2016.

2. The submissions of the assessee in the form of paper book filed before CIT (A) - 10 have been verified. It is seen from the paper book, the assessee filed written submissions and not filed any Additional Grounds. The AR of the assessee produced one of the loan creditor who is father of the assessee, for confirmation of loan of Rs.10,00,000. A statement has been recorded and found that though the creditor confirms the loan to the daughter but could not explain the sources for the deposits in the bank account Hence, the credit worthiness of the loan creditor is doubtful.

3. In view of the above, it is submitted that since there is no additional evidence filed by the assessee, for further examination, the case may kindly be decided based on facts.

8. The AO vide letter dt. 21.10.2013 communicated the reasons, fort assuming the jurisdiction u/s 147, to the appellant A copy of the same is also furnished by the appellant which is available at page 57 to 59 of the paper book. The reasons for reopening of the assessment are as below.

‘On verification of the record, the following points were observed in your case, i.e. Smt M Vani w/o M Ramesh Reddy for the AY 2007-08, 2008-09 & 2009-10.

A. Gifts received from your brother J Vikram, NRI on various dates

Sl.No.	Amount – Rs.
1.	19,73,684/-
2.	28,40,639
3.	8,17,265/-
4.	8,17,311/-
5	12,30,054/-

*The above gifts received are not occasional.*

*B. Loans received from the friends on various dates for AY 2007-08*

Sl.No.	Amount-Rs.	Received from	Remarks
1.	1,98,869	G.Sanjeev Reddy	No confirmation letter/No repayment
2	1,49,464	- Do -	- Do -
3	11,36,869	- Do -	- Do -
4	11,14,387	- Do -	- Do -
5	2,20,790	- J Vinod	- Do -
6	2,20,790	- Do -	- Do -
7	10,00,000	Gopal Reddy	- Do -
8	25,00,000	T Nanda K	- Do -

*c) Sale of acres 9.36 gts at Bulkapur, Shankarpally, Ramachandrapuram Municipality, R. R. District for Rs. 99.00 lakhs:*

*Smt. M. Vani purchased acres 9.36 guntas at Bulkapur, Shankarpally for Rs. 19.80 lakhs in 2006 on 10.05.2006 and sold the same for Rs. 99.00 lakhs on 02.01.2007 and claimed exemption of capital gains in A. Y. 2007-08 being the agricultural land but no details of the sale and purchase were furnished. As per records, you have stated that you have borrowed money to do real estate transaction, however, the' above sale appears as business income as the above purchase and sale is in adventure in nature of trading. For the purchase of above property you have stated that loans were taken from fiends and relatives for investing, the above land in speculation of increase of value of property. "*

*D) You have given loan of Rs.1.20 crores to Shri K. Laxma Reddy, CMD of M/ s. KLR Industries, Cherlapally and the sources are that the income received from sale of agriculture land and loans received from her NRI brother Sri J. Vikram.*

Date	Amount of loan Rs.	Source
12.07.2006	30,00,000	Loan from NRI brother J Vikram
17.04.2007	50,00,000	Income from sale of land at bullapur, shankerpally
11.05.2007	40,00,000	- Do -

*E) Cash deposits in the saving bank account of Smt. M Vani at India bank on various dates*

Sl.No.	Amount – Rs.
1.	13,75,000
2.	9,00,000
3.	4,00,000
4.	1,00,00,000
5	8,00,000
6.	8,50,000
7.	5,50,000
8.	4,00,000
9.	6,00,000



*No details of sources for the above cash deposits are observed*

*(F) Plot 690 sq yards at Serinlingampally given for development to M/s RV Nirman P Ltd and received Rs.5.70 lakhs as advance on 19.6.2006. No details of capital gains on development of land or construction details are seen in the record*

*(G) Plot 920 sq yards at given for development to M/s Lumbini Constructions Ltd and received Rs.9.0 lakhs advance received on 2.7.2008 and no details of capital gains on development of land or construction details are seen in the record*

*Therefore, in order to verify the above facts, the case is reopened for the AY 2007-08, 2008-09 & 2009-10.”*

*9. The material available on record has been perused and I am in agreement with the submissions made by the appellant. In the remand report dt. 20.06.2016, no comments have been furnished by the AO in respect of the grounds of appeal no. 2' to 5, challenging the jurisdiction u/s. 147. After considering the written submissions and paper book of the appellant, the AO has stated that no additional evidence has been filed and that the case may be decided' on facts.*

*9.1. In the case of the appellant, an assessment u/s. 143(3) was already made on 11.11.2009, for A.Y. 2007-08. A copy of the order has been furnished by the appellant which is available at pg. 54 to 56 of the paper book. On perusal of the reassessment record it is seen that the reasons, for reopening the assessment , were recorded on 12.11.2012. On page 2 of the reassessment order dt. 27.03.2014, it is noted that notice u/s. 148 was issued and in response the appellant filed a letter dt.13.12.2012 requesting to treat the return filed on 05.07.2007 as the return filed in compliance of notice u/s 148. Therefore, four years have expired from the end of the relevant assessment year when notice u/s 148 was issued ;*

*9.2. In view of the above , the first proviso to Section 147 is attracted and no action shall be taken u/s 147 after the expiry of 4 years from the end of the relevant assessment year unless any income chargeable to tax has escaped assessment by reason of the failure on the part of the assessee to make a return ii)». 139 or 142(1) or 148 or to disclose fully and truly all material facts necessary for assessment. The whole argument of the appellant is based on the stand that the First proviso to Section 147 has been violated.*

9.3. *The appellant stated that there was no failure on her part to fully and truly disclose all the material facts. Referring to the reasons recorded, the appellant pointed out that the AO has not recorded that escapement of income was on account of assessee's failure to disclose the material facts. In short, neither there was any failure on her part nor any failure was indicated in the reasons recorded. The appellant states that necessary legal requirement was not met and that the notice issued is invalid. In this connection, the appellant relied upon number of case laws which form part of the submissions.*

9.4. *The appellant argued that all the material facts touching upon the issues sought to be reopened and verified were already disclosed during the, original assessment proceedings. Copies of documents relating to original return of income, statement of total income, claim for exemption in respect of gain on sale of agricultural land, explanation regarding sale of agricultural land along with supporting documents, bank account statements reflecting loans and gifts, capital account and statement of affairs, affidavit in respect of gift received, production of books of accounts and explanation of sources of amounts received and amounts advanced and deposits into the bank accounts have been furnished which form part of the paper book. The appellant stated that all of this constitutes material facts which are already there on record at the time of original assessment proceedings.*

9.5. *The appellant submitted that the claims were accepted in the original assessment proceedings after duly examining the particulars filed. On page 2 of the assessment order dt. 11. 11.2009 that all the information as called for was produced (refer page 54 to 56 of the paper book). The appellant has also furnished copies of the correspondence, in the form of letters addressed to the AO, in the course of original assessment proceedings. These documents are available at page 40 to 53 of the paper book.*

9.6. *The reasons for reopening of the assessment relate to gifts and loans received, sale of agricultural land, loans advanced, cash deposits in bank account and plots given for development purposes. On perusal of the paper book, it is seen that the loans and the gifts received and transaction relating to sale of agricultural land were verified in the course of the original assessment proceedings. The material facts relating to loans advanced, cash deposits in bank account and plots given for development were disclosed in the course of the original assessment proceedings and were all available before the AO.*

9.7. *Some of the documents, forming part of the paper book, which were furnished in the course of the original assessment proceedings are, as below.*

- (i) Copy of return of income filed on 05.07.2007 ( pg. 40)*
- (ii) Statement of computation of total income (pg. 41 & 42)*

- (iii) Letter addressed to the AO with details of agricultural income, sale of agricultural lands and proof for the same. Details of short term capital gains and copies of bank statements (pg. 43 & 44)*
- (iv) Letter addressed to the AO With confirmation for gifts received, proof for agricultural lands and 'proof for distance of the lands from the municipal corporation (pg 45 to 47)*
- (v) Affidavit in respect of gifts (pg.48 & 49)*
- (vi) Letter addressed to the AO with note on short term capital gains, statement of affairs and production of books for verification (pg. 50 & 51)*
- (vii) Copy of capital account and statement of affairs (pg. 52 & 53)*
- (viii) Copy of original assessment order dt 11112009 (pg. 54 to 56)*

9.8. The appellant stated that there is no escapement of any income and that rather than satisfaction about the escapement of income, the reasons are directed towards verification of the details, already on record. The appellant further stated that the reassessment proceedings were initiated on the basis of the same material which amounts to mere change of opinion. In this connection, the appellant relied upon the decision of the Hon'ble Supreme Court in the case of *Kelvinator India Limited* 320 ITR 561 and stated that reopening of the assessment on mere change of opinion is bad in law.

9.9. In the context of the factual position, as above, the appellant has placed reliance upon the decisions of the Hon'ble Telangana and Andhra Pradesh High Court in the cases of *Kohinoor Hatcheries Pvt. Ltd.*, (2016) 389 ITR 493 and *Tecumseh Products India Pvt. Ltd.*, (2014) 361 ITR 429.

9.10. In the case of the *Kohinoor. Hatcheries Pvt. Ltd.*, the assessee had given full and true disclosure of all material facts about sale of land upon which first assessment order was passed opining that lands sold were agricultural lands. After four: years, the assessment was sought to be reopened on ground' that land was sold to a real estate company and, therefore, sale was not exempted as sale of agricultural land. The jurisdictional High Court has held that this amount to a change of opinion and reassessment could not be permitted by law.

9.11. In the case of *Tecumseh Products India Pvt. Ltd.*, the jurisdictional High Court has held that before issuing notice ix] s. 148 after expiry of four years, the Officer must be satisfied that there has been escapement of income and this is because of failure on the part of the assessee to make a return u/s. 139 or 142(1) or 148 or to disclose material facts. The Court further held that these conditions are sine qua non and conditions must be reflected in the notice itself.

*9.12. Considering the totality of facts, and circumstances discussed, as above, the proceedings u/s 147 cannot be sustained as valid in law . Accordingly, the grounds of appeal nos. 2 to 5 are allowed”*

3. The Revenue vehemently contended during the course of hearing that the CIT(A) has erred in law and on facts in quashing the impugned reopening as not sustainable. It's case is that this is an instance of Anti Corruption Bureau (ACB)'s proceedings which could see light of the day only after the specified period of four years from the end of the relevant assessment year thereby prompting the Assessing officer to take recourse to sec.147/148 proceedings by recording the necessary reasons. We see no merit in Revenue's instant arguments. It is evident from a perusal of the Assessing officer's reopening reasons recorded in assessee's case that he has nowhere recorded any reasons to believe that the assessee had not truly and fully disclosed details of her taxable income. The CIT(A) has already considered various judicial precedents (supra) whilst deciding the instant legal issue in assessee's favour. Coupled with this, we also wish to quote hon'ble Bombay high court's decision in Hindustan Lever Ltd. Vs. R.B.Wadkar (2004) 268 ITR 332 (Bom.) that it is needless to mention that the reopening reasons are required to be read as they were recorded by the Assessing officer. No substitution or deletion is permissible. No addition or deletion can be made on those reasons. No inference can be allowed to be drawn on the basis of the reasons not recorded. It is for the Assessing officer to disclose and open his mind through the reasons recorded by him, he has to speak through his reasons". And also that "the reasons should be self-explanatory and should not keep the assessee guessing for reasons. Needless to say, we hold that the Assessing officer's reopening reasons have failed in not only recording any such failure in light of sec.147(1) 1<sup>st</sup> proviso on assessee's part but also he made it clear that the same "were in order to verify the above facts". We thus uphold CIT(A)'s findings deciding the instant legal issue in assessee's favour. Revenue's instant sole grievance as well as main appeal ITA 525/Hyd/19 stand rejected therefore.

4. Next comes the Revenue's latter appeal ITA 526/Hyd/2019. It has raised the substantive grounds in the instant appeal that the CIT(A) has inter alia erred in law and on facts in reversing the Assessing officer's action adding assessee's loan(s) of Rs.25 lakhs taken from Mr. T Nanda K and treated as unexplained u/s 68 followed by unexplained bank deposits addition of Rs.1,44,00,000/- ; respectively.

4.1. Coming to the former issue of Rs. 25 lakhs, the Revenue's case is that the Assessing officer had rightly made the impugned addition since the necessary condition of filing Overseas remittance certificate for the corresponding money transfer from USA had not been complied with at the assessee's behest. The same is found to be against the clinching facts recorded in CIT(A)'s order that the impugned sum had nowhere come from any foreign bank account but from a domestic account of the credit party only. The Revenue's sole substantive argument in favour of impugned addition is outrightly rejected.

Coupled with this, the assessee has also filed relevant details of bank account in issue that the impugned sum stood duly repaid vide cheque dated 18.2.2008 cleared on 27.2.2008. Revenue's instant former substantive ground fails therefore.

5. Next comes the latter issue of unexplained bank deposits addition of Rs. 1,44,00,000/-. The CIT(A)'s detailed discussing deleting the same reads as under.

*"8.1. The material available on record has been perused. Non filing of foreign inward remittance certificates is not relevant at all as the amount under consideration was transferred from the bank account of the creditor, at Guntur. The AO has not disputed facts and documents, furnished by the appellant, while explaining the credits in the bank account. It is a fact that the amounts were received through banking channels. The appellant furnished confirmation letter j notarized affidavit with all the relevant particulars of the creditor like name, address, date and mode of payment and sources of income. By*

*furnishing the relevant details, with supporting documents, the appellant has discharged the primary onus cast in terms of Section 68.*

*8.2 With the factual position, as above, the AO has not indicated any valid reasons for rejecting the explanation and evidence filed by the appellant. The AO has also not asked the appellant to furnish any further relevant details. No independent enquiries have been caused and no material, adverse to the claim of the appellant, has been brought on record.*

*8.3 The case laws relied upon by the AO are not applicable to the facts in the present case. The reasons for the inapplicability of the case laws are contained in the submissions of the appellant and I am in agreement with the same. As pointed out, the appellant has discharged the primary onus and furnished the relevant details. The appellant even filed a cash flow statement and bank account statements, to explain the sources for the deposits in the bank account.*

*8.4 Further, on facts, on 20.05.2007, the deposit in the bank account was only Rs.10,00,000/- and the same was erroneously taken as Rs. 1,00,00,000/- . This fact is evident from the details furnished by the appellant and the remand report of the AO.'*

*8.5 The details filed by the appellant, in the form of cash flow statement and bank account statements, show that after considering the opening cash balance, incomes received during the year in cash. and cash withdrawals, a sum of Rs.67,08,674/- was available as against the actual deposit of Rs.54,00,000/-."*

5.1. It is therefore evident from the case records that the impugned sum had been wrongly taken as Rs. 1,44,00,000/- towards unexplained deposits in the bank account wherein the actual figure was Rs.54 lakhs only and the assessee's cash flow statement had duly explained the source to the tune of Rs.67,08,674/- (supra).

We thus decline Revenue's instant second grievance as well as its latter appeal ITA 526/Hyd/19.

6. Learned counsel at this stage stated that the assessee no more wishes to press his twin Cross Objections C.O. 20 and 21/H/19 since the CIT(A)'s lower

appellate orders under challenge stand affirmed in both of the Revenue's appeals in preceding paragraphs. Ordered accordingly.

These Cross Objections are dismissed as not pressed therefore.

To sum up, these twin Revenue's appeals ITA 525 and 526/Hyd/19 are dismissed and assessee's Cross Objections C.O. 20 and 21/Hyd/19 are dismissed as rendered infructuous in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in Open Court on 18/06/2021.

Sd/-

**(L.P. SAHU)**  
**ACCOUNTANT MEMBER**

Sd/-

**(S.S. GODARA)**  
**JUDICIAL MEMBER**

Dated: 18<sup>th</sup> June, 2021

\*gmV

Copy of Order forwarded to:

1. Smt. Meda Vani, Villa no.45, Villas Scapes, Gandipeta (V) & (M)  
R.R.Dt.
2. Dy.CIT, Circle 8(1), Hyderabad
3. ACIT, Range 8, Hyderabad.
- 4 CIT(A)-10, Hyderabad
- 5 Pr.CIT-2, Hyderabad.
- 6 CCIT (IT) (SZ) Bengaluru
- 7 D.R. ITAT Hyderabad
- 8 Guard File