

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

(Through Video Conference)

**Before Smt. P. Madhavi Devi, Judicial Member
And
Shri A. Mohan Alankamony, Accountant Member**

**ITA No. 117/Hyd./2019
Assessment Year: 2014-15**

Sri Venkata Nagaraju Dasam
Hyderabad

vs. ITO, Ward 9(4)
Hyderabad

[PAN: AIBPD4476E]

(Appellant)

(Respondent)

For Assessee: Shri M. Bhupal Gowd, , C.A.
For Revenue: Sri Venudhar Godesi, D.R

Date of Hearing : 14/07/2021
Date of Pronouncement : 26/07/2021

ORDER

PER P. MADHAVI DEVI, JM

This is assessee's appeal filed against the order of CIT(A)-7, Hyderabad dated 26.11.2018 relating to A.Y. 2014-15.

2. Brief facts of the case are that assessee an individual, filed his return of income for the AY 2014-15 on 21.12.2015 declaring a total income of Rs. 2,28,400/-. The case was selected for limited scrutiny under CASS to verify the cash deposits in savings bank accounts as they were more than the assessee's turnover. The assessee during the assessment proceedings u/s 143(3) of the Income Tax Act, 1961 [in short 'the Act'] was asked to furnish information of its business activity, computation of income, bank account

statement and details of debits and credits appearing in his savings bank account. However, since the assessee furnished only part of the information, the AO completed the assessment u/s 144 of the Act and has treated the cash deposits into Citizen Co-operative bank account to the extent of Rs. 58,80,000/- as income of the assessee under the head 'income from other sources' and brought the same to tax.

3. Aggrieved, assessee preferred an appeal before the CIT(A) who confirmed the addition of Rs.58,80,000/- made by the AO and assessee is in second appeal before us by raising the following grounds of appeal.

"1. Aggrieved against the order of the CIT(Appeals), HYD-7, the appellant in appeal before the Income Tax Appellate Tribunal.

2. That the learned CIT(Appeals), HYD-7 has grossly erred both in law and on facts by not allowing the deposits made by the appellant is not chargeable to tax and income of the appellant at Rs. 68,77,499/- as against declared income of Rs. 3,36,945/- in an order of assessment dated 26.11.2018 under section 144 of the Income Tax Act.

3. That the learned CIT(Appeals), HYD-7 has erred both in law and on facts by allowing an addition of Rs. 58,80,000/- representing alleged unexplained cash deposits in the Citizen Co-operative Society Bank Account of the appellant and brought to tax under section 68 of the Act.

4. That the learned CIT(Appeals), HYD-7 has failed to appreciate that bank account of the appellant does not constitute books of account and therefore even otherwise addition made by invoking section 68 of the Income Tax Act 1961 is otherwise misplaced, misconceived and untenable.

5. That while making the addition the learned Assessing Officer has failed to appreciate the explanation tendered by the appellant that deposits were out of saving from agricultural income of his family members given to him for medical treatment of his father and as such sums could not be brought to tax as income of the appellant.

6. The learned Assessing Officer has failed to consider the fact of treatment undergone by the appellant's father for CANCER treatment at various hospitals in Andhra Pradesh & Telangana, in spite of providing the prescriptions, investigation reports and various hospital bills. The appellant father has also obtained relief fund from AP Chief Minister's relief fund for the CANCER treatment.

7. That the learned Assessing Officer has further erred both in law and on facts in assessing the entire cash deposits into Citizen Co-operative bank account as unexplained cash deposits without giving the benefits of adjusting the past Withdrawals from the same or another bank account of the appellant, which is against the principles of natural justice.

8. That the learned Assessing Officer has erred both in law and on facts in levying interest of Rs. 3,09,366/- under section 234A of the Act and, of Rs.6,00,534/- under section 234 B of the Act which are not leviable on the facts of the instant case.

9. That the appellant craves leave to add or amend any grounds of appeal.

It is therefore, prayed that, assessment framed be held to be without jurisdiction and further, addition along-with interest levied may kindly be deleted and the appeal of the appellant be allowed.”

4. The ld.counsel for the assessee submitted that assessee and his family members are into coconut business and owned 15 acres of land in which coconuts are grown and sources of cash deposits are the receipts from the sale of the crop. He submitted that assessee's father was not well and was being treated and all of his family members from time to time deposited cash into assessee's bank account for his treatment. He submitted that the AO has not accepted this contention of the assessee by holding that assessee's father has expired in May, 2013 whereas all deposits in the account are thereafter i.e from June, 2013. He submitted that assessee's father has expired on 09th May, 2014 and not in May, 2013. He submitted that all these facts need to be considered by the authorities below. He also made an alternative submission that even if the said cash deposits are to be treated as belonging to the assessee, it should be treated as part of turnover of the assessee and income is to be estimated thereon as business income of the assessee. In view of the same, he prayed for remittance of the issue back to the file of AO.

4.1. Ld. DR was also heard.

5. Having regard to the fact that the AO has proceeded on the assumption that the cash deposits are after the death of assessee's father, and the assessee could not file all the details before the AO and the CIT(A), we deem it fit and proper to remit the issue to the file of the AO with a direction that AO shall reconsider the issue afresh in light of material filed by the assessee in accordance with law. The assessee is directed to cooperate with the AO by giving all details, failing which, AO can take necessary decision as per law.

5. In the result, assessee's appeal is treated as allowed for statistical purposes.

Order pronounced in Open Court on 26/07/2021.

Sd/-

Sd/-

(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

(P. MADHAVI DEVI)
JUDICIAL MEMBER

Dated: 26th July, 2021

*gmv

Copy of Order forwarded to:

1. Sri Venkata Nagaraju Dasam, H.No. 11-11-112/1, Road No.5, Sowbhagyapuram, Kothapeta, Hyderabad 500 035, Telangana.
2. ITO, Ward 9(4), Hyderabad
3. ACIT, Range 9, Hyderabad
4. CIT(A)-7, Hyderabad
5. Pr.CIT – 7, Hyderabad.
6. D.R. ITAT Hyderabad
7. Guard File