

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH 'B', HYDERABAD**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER
AND SHRI S. RIFAUH RAHMAN, ACCOUNTANT MEMBER**

ITA No. 814/Hyd/2016
Assessment Year: 2005-06

Amruthamma Pulluri,
Karimnagar,

vs. Income-tax Officer,
Ward – 3, Karimnagar
Hyderabad.

PAN – AUCPP1050D

Appellant

Respondent

Assessee by: Shri S. Rama Rao
Revenue by: Shri Rajeev Benjwal

Date of hearing: 07/03/2019
Date of pronouncement: 15/03/2019

ORDER

PER S. RIFAUH RAHMAN, AM:

This appeal filed by the assessee is directed against the order of CIT(A) – 2, Hyderabad, dated, 30/11/2015 for AY 2005-06.

2. On perusal of record, we find that there was a delay of 97 days in filing this appeal before us. To this effect, the assessee has filed a petition requesting for condonation of the said delay wherein it was stated that since the assessee is a 80 years old and almost confined to bed due to which she was not in a position to get the things done within the stipulated time, the delay occurred. It was therefore, stated that the delay may be condoned and admit the appeal for adjudication. An affidavit was also filed affirming the said reasons. As the assessee was prevented by a reasonable cause for not filing the appeal within the stipulated time, we

condone the delay and admit the appeal for hearing and adjudication.

3. The brief facts relating to this appeal are, the assessee made two cash deposits, viz., on 12/02/2005 of Rs. 6,10,000/- and on 26/02/2005 of Rs. 4,00,000/-. The AO accepted the explanation offered by the assessee for Rs. 4,00,000/- and portion of Rs. 6,10,000/-. He made disallowance of Rs. 1,20,000/- out of Rs. 6,10,000/- by observing as under:

"The explanation of the assessee is carefully considered. It is true that the assessee is in the business of money-lending and therefore, the theory of collections from debtors cannot be rejected. It is also true that she is getting rental income of about Rs. 1,20,000/- per annum. Even assuming that the collections of Rs. 4,25,000/- and sale proceeds of Rs. 65,000 are pooled together and used in the bank deposit, it amounted to Rs. 4,90,000 only whereas the deposit was for an amount of Rs. 6,10,000. Thus, there is a gap of Rs. 1,20,000 between the investment and the source, for which there is no proper explanation and hence treated as unexplained investment in the hands of the assessee."

4. Aggrieved with the above order, the assessee preferred an appeal before the CIT(A) and Id. CIT(A) has confirmed the findings of AO.

5. Aggrieved by the order of CIT(A), the assessee is in appeal before us raising the following grounds of appeal:

"1) The order of the learned CIT (A) is erroneous both on facts and in law.

2) The learned CIT (A) erred in confirming the action of the Assessing Officer in treating the deposits made into the bank account of Rs.1,20,000/- as the income of the appellant.

3) Any other ground or grounds that may be urged at the time of hearing."

6. Considered the rival submissions and perused the material on record. The effective ground raised by the assessee is objecting to addition of Rs. 1,20,000/-. We notice from the assessment order that AO has confirmed that the assessee has received rental income to the extent of Rs. 1,20,000/-, while comparing the source for deposit of Rs. 6,10,000/-. He considered the sources as

i) Collection from debtors	Rs. 4,25,000/-
ii) sale proceeds	<u>Rs. 65,000/-</u>
	Rs. 4,90,000/-
	=====

The Id. AR has submitted that after confirming the rental income, AO has not given credit for the same. We notice from the record that assessee has declared the net income from rent in the return of income at Rs. 84,000/- and income from lending business at Rs. 65,500/-. Therefore, we cannot accept the submission of the Id. AR to consider whole of rental income as source for making the above deposits. Assessee has net source of Rs. 1,49,500/- and assessee has to maintain the family, and after factoring the family maintenance @ 50%, we can presume that assessee must have saved some funds for future. Therefore, we direct the AO to allow Rs. 75,000/- as savings from the income of this year. Accordingly, ground raised by the assessee is partly allowed.

7. In the result, appeal of the assessee is allowed.

Pronounced in the open court on 15th March, 2019.

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Hyderabad, dated 15th March, 2019.

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Copy forwarded to:

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3. *CIT(A) - 2, Hyderabad*
4. *Pr. CIT – 2, Hyderabad*
5. *The DR, ITAT, Hyderabad*
6. *Guard File*