

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “B” BENCH: HYDERABAD

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER
AND
SHRI RIFAUR RAHMAN, ACCOUNTANT MEMBER

ITA. No.1007/Hyd/2018 (Assessment Year: 2014-15)

Shashikala Gupta, Hyderabad. PAN: AASPG 1838 N (Appellant)	vs.	Income Tax Officer, Ward-10(1), Hyderabad. (Respondent)
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For Assessee:	Shri Laxmi Niwas Sharma
For Revenue :	Smt. M. Narmada, DR

Date of Hearing :	07.03.2019
Date of Pronouncement :	15.03.2019

ORDER

PER V. DURGA RAO, JM.

This appeal filed by the assessee is directed against the order of the CIT(A)-6, Hyderabad dated 01/03/2018 for the assessment year 2014-15. In this appeal, assessee has raised the following grounds of appeal:-

- “1. *The Ld. CIT(A) has erred in facts and in law while completing (sic) the assessment.*
2. *The Ld. CIT(A) has erred in sustaining the addition of Rs. 9,50,000/- made by the A.O., ignoring the fact that cash deposits were made from earlier withdrawals.*
3. *The Ld. CIT(A) has erred in enhancing the addition of Rs. 18,50,000/- ignoring that the assessee has discharged onus proving genuineness, creditworthiness and identity of the transaction.*
4. *For these and any other grounds which may be raised on or before hearing of the appeal.”*

Assessee has raised the following additional grounds of appeal:-

“5. *The A.O. erred in making addition and the Ld. CIT(A) erred in upholding and enhancing the addition u/s 68 in respect of cash deposits reflecting in bank statement ignoring that section 68 is applicable to the credits found in “books of an assessee maintained for previous year” and the bank statement cannot be regarded as books maintained by the assessee as understood purposes of section 68.*”

2. Brief facts of the case are that the assessee, an individual, filed her return of income for the A.Y. 2014-15 declaring total income of Rs. 3,68,770/-. The case was selected for scrutiny under CASS. During the scrutiny proceedings, A.O. noted that the assessee has deposited an amount of Rs. 9.50 lakhs in the Axix Bank and the same was withdrawn subsequently. When the A.O. asked the assessee to explain the source of cash deposits, the assessee submitted that she has received cash from her husband as the same was given to him as hand loan without interest. Not satisfied with the assessee's explanation, A.O. brought it to tax and added back to the total income of the assessee.

3. Aggrieved, assessee preferred an appeal before the CIT(A) and submitted that in the earlier year, the assessee has given loans to her husband and subsequently the same were received through cheques and deposited in bank and withdrawn. Having not satisfied with the said explanation of the assessee, CIT(A) confirmed the addition made by the A.O. and further enhanced the addition. On being aggrieved, assessee is in further appeal before the Tribunal by raising the above mentioned grounds / additional grounds of appeal.

4. Before us, Learned Counsel for the Assessee submitted that the assessee has deposited and withdrawn the cash through banking channels only and therefore, there is no basis for the CIT(A) to disbelieve the explanation given by the assessee and therefore, the addition may be deleted and the grounds raised by the assessee may be allowed.

5. On the other hand, Learned Departmental Representative, supported the orders of the authorities below.

6. We have heard both the parties and perused the material available on record. The only issue involved in this appeal relates to addition of Rs. 9.50 lakhs on account of unexplained cash deposits. The assessee has withdrawn Rs. 9.50 lakhs each on 04/04/2013 and on 30/05/2013 another sum of Rs. 9 lakhs was withdrawn on 05/07/2013. The assessee has also deposited different sums on different date in the same bank account. The case of the A.O. is that so far as the withdrawal of Rs. 9.50 lakhs on 30/05/2013 is concerned, the said money was laying with the bank for 53 days and therefore, the A.O. doubted the transaction. However, the CIT(A) has doubted the entire transactions made in the assessee's bank account. A perusal of the paper book filed by the assessee, we find, at page 13, which is a statement of assessee's Axis Bank account, it is seen that there are some deposits and withdrawals and on taking into account these transactions, the A.O. doubted the transactions and made addition. When the A.O. is doubted

the transactions of the assessee's account, which according to the assessee is received from the assessee's husband, A.O. ought to have called for the details of Mr. Vijay Kumar Gupta, the assessee's husband and verified the details. Without verifying the creditworthiness of Mr. Vijay Kumar Gupta and genuineness of the transactions, the A.O. made the addition and on appeal, the CIT(A) confirmed the A.O.'s decision and further enhanced the assessment to the tune of Rs. 18,50,000/-. In our considered opinion, both authorities below have not examined the issue in proper perspective and made the addition / enhanced the assessment on the basis of mere assumptions and presumptions and in the without any corroborative material to support their decision. In this case, the assessee has explained the sources of the deposits and the withdrawals made. In our opinion, the assessee has discharged the burden casted upon her. If at all the A.O. is having any doubt regarding the deposits, he should have made detailed enquiry and should have decided the genuineness of the deposits. Without making any such enquiry, addition cannot be made. In view of the above facts and circumstances of the case, we are of the opinion that the order of the CIT(A) has to be reversed and accordingly reversed. Thus, the grounds of appeal filed by the assessee are allowed.

7. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 15th March, 2019.

Sd/-

**(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

Sd/-

**(V. DURGA RAO)
JUDICIAL MEMBER**

Hyderabad, Dated: 15th March, 2019.

OKK, Sr.PS

Copy to

1.	Shashikala Gupta, 104, Surya Towers SP Road, Secunderabad-500003.
2.	Income Tax Officer, Ward 10(1), Hyderabad.
1	CIT (A)-6, Hyderabad.
4.	Pr. CIT-6, Hyderabad.
5.	DR, ITAT, Hyderabad.
6.	Guard File