

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

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

ITA. No.2254/Hyd/2017
Assessment Year: 2014-15

Nagaraju Mutyala, H.No.1-10/28/228/120A, Nagarjuna Nagar Colony, Kushaiguda, ECIL Post, Hyderabad – 500 062. PAN: AKBPM 9586 A	vs.	Income Tax Officer, Ward-15(4), Hyderabad.
(Appellant)		(Respondent)

For Assessee:	Shri V. Siva Kumar
For Revenue :	Smt. Neeju Gupta, DR

Date of Hearing :	15/05/2019
Date of Pronouncement :	24/05/2019

ORDER

PER V. DURGA RAO, JM.

This appeal filed by the assessee against the order of CIT (A)-7, Hyderabad dated 03/10/2017 for the assessment year 2014-15. In this appeal, assessee raised the following grounds of appeal:-

- "1. *The order of the Learned Commissioner of Income Tax (Appeals) is against law, weight of evidence and probabilities of the case.*
- 2.(a). *The learned Commissioner of Income Tax (Appeals), is not correct in law in sustaining the addition of Rs.17,00,000 made by the Assessing Officer treating the deposit of Rs.17,00,000/- made on ~2-04-2013 by the assessee in his savings bank account No.36/4978/486938 with the Telangana State Cooperative Apex BanK Ltd.,*
- 2.(b). *The learned Commissioner of Income Tax (Appeals), ought to have appreciated that the assessee has furnished explanation for the sources of the deposit of Rs. 17,00,000/- and consequently, the Assessing Officer was not justified in disbelieving the explanation and treating the amount of Rs. 17,00,000/- as unexplained cash credit u/s.68 of the Act and accordingly, the learned Commissioner of Income Tax (Appeals) ought to have deleted the addition.*

- 3.(a). *The learned Commissioner of Income Tax (Appeals), is not correct in law in sustaining the addition of Rs.10,98,000/- made by the Assessing Officer treating the said amount as unexplained investment u/s.69B of the Act.*
- 3.(b). *The learned Commissioner of Income Tax (Appeals), ought to have appreciated that the Assessing Officer made the addition on an incorrect premise and that the said amount stood explained as the same was utilized out of the monies available in the bank account of the assessee.*
4. *The learned Commissioner of Income Tax (Appeals) ought to have directed that deduction of Rs.10,000/- available to the assessee u/s.80ITA with effect from Asst.Year 2013-14.*
5. *For the above grounds and such other grounds that may be urged at the time of hearing, the appellant prays that the appeal be allowed. The appellant craves leave to add to, amend or modify the above grounds of appeal either before or at the time of hearing of the appeal, if it is considered necessary.”*

2. Brief facts of the case are that the assessee is engaged in the business of Civil Contract Works, filed the return of income declaring total income of Rs. 2,80,310/-. The case of the assessee was selected for scrutiny and after due process assessment was completed u/s 143(3) of the Act on 30/11/2016. In the assessment order, the A.O. has noted that the assessee has deposited in Telangana State Cooperative Apex Bank, Hyderabad bearing A/c No. 36/4978/486938 on 02/04/2013 an amount of Rs. 17 lakhs as assessee was asked to explain the source of the above deposit. In response it was submitted before the A.O. that the said amount is deposited out of the funds received from assessee's brothers on account of family settlement on account of relinquishment of the assessee's right on inherited agricultural property. A.O. asked the assessee to furnish the proof of the source of above deposits. In response the assessee furnished a copy of death certificate of his father and a copy of pattadar pass book of agricultural land holding and

submitted that there is no other information to substantiate the claim to establish that the amount of Rs. 17 lakhs has been received through a family settlement and he shown his inability to produce any proof / evidence for the same and accordingly the assessee offered an amount of Rs. 17 lakhs as unexplained credit in his savings bank account. A.O. further noted that the assessee has invested an amount of Rs. 10,98,000/- and asked the assessee to explain the source. It was submitted before the A.O. that the amount of Rs. 10 loakhs was given to Sri. Sailu Goud towards hand loan from personal savings of earlier years but the same is yet to be received. When the A.O. asked the assessee to substantiate the hand loan given to Sri Sailu Goud it was submitted before the A.O that he has no proof to establish the above amount is given towards hand loan to Sri Sailu Goud and the same is offered for taxation. Therefore, the Assessing Officer added an amount of Rs. 10,98,000/- in the hands of the assessee u/s 69B of the Act.

3. On appeal before the CIT(A), the assessee has not filed any details and no explanation was submitted therefore, the CIT(A) confirmed the order of the A.O. Aggrieved with the order of the CIT(A), assessee carried the matter in appeal before the Tribunal.

4. At the time of hearing, Learned Counsel for the Assessee filed a petition for admission of additional evidence in respect of Rs. 17 lakhs as well as Rs. 10,98,000/- and in its petition it is submitted that the

source for an amount of Rs. 17 lakhs deposited in Telangana State Cooperative Apex Bank Ltd, is the money received from the assessee's brothers on account of family settlement. The same was not filed before the A.O due to the reason that the agreement copy was in possession of the assessee's brother at Mutyalavaripalem, West Godavari District and therefore, the same may be admitted and considered. Learned Counsel for the Assessee also filed some details relating to transactions in respect of addition of Rs. 10,98,000/-which is the loan amount advanced to Sri Sailu Goud.

5. On the other hand, Ld DR strongly opposed for admission of the additional evidence and relied upon the orders of the lower authorities.

6. Both the parties were heard and perused the material on record. From the assessment order I find that when the assessee was asked to furnish the proof of source of bank deposit amounting to Rs. 17 lakhs, it was submitted before the A.O that the assessee received the same through family settlement and further submitted that he is not in a position to produce any evidence or proof for the same and offered the same for taxation. Now the assessee says that the agreement relating to family settlement is with his brother who stays at West Godavari District and therefore, he could not produce the same before the A.O during the assessment proceedings. Even before the CIT(A), he has not produced any evidence with regard to family settlement agreement. On

perusal of the above facts and circumstances of the case, I am of the view that after passing a long period, now the assessee says that he got the family settlement agreement from his brother and the same, in my considered opinion, is nothing but afterthought. Therefore, the additional evidence cannot be admitted at this stage and accordingly, the same is rejected.

7. In so far as addition in respect of Rs. 10,98,000/- is concerned, the assessee has not filed any details neither before the A.O. nor before the CIT(A). Therefore, in my opinion, at this stage the details filed cannot be admitted after a long period. The assessee has not given any reason as to why he could not produce the relevant details before the A.O. in respect of the additions made by the A.O. Even before the first appellate authority the assessee could not improve his case with any substantial evidence in support of his claim. Even before the Tribunal assessee is not able to explain the source for the advance given to Sri Sailu Goud. Therefore, the additional evidence filed by the assessee cannot be admitted at this stage and the same is rejected.

8. On merits of the case, the assessee admitted his inability to furnish the details of the disputed amounts before the A.O. as he could not substantiate the source of deposits as well as the source of investment made. In the assessment order, the A.O. made his observations as under:

“Q.11: In view of your failure in substantiating your claim of getting funds through family settlement, sources for certain investments made, you are hereby required to show cause as to why the following amounts should not be brought to tax:

<i>Sl No.</i>	<i>Nature of addition</i>	<i>Amount addition</i>
<i>1.</i>	<i>Unexplained credit in your savings bank account held with Telangana State Cooperative Apex Bank Ltd bearing Account No.36/4978/486938 as per the provisions of section 68 of the IT Act, 1961.</i>	<i>Rs. 17,00,000/-</i>
<i>2.</i>	<i>Unexplained investment made out of your savings bank account held with Telangana State Cooperative Apex Bank Ltd bearing Account No. 36/4978/486938 as per the provisions of section 69B of the IT Act, 1961.</i>	<i>Rs. 10,98,000/-</i>

Ans. I have no explanation to offer and I offer the same to tax for the year under consideration.

Q. 12. Do you want to say anything?

Ans: I am a small business man carrying petty contract works. I have no knowledge about income tax matters and not maintained any books of account for the year under consideration. In view of certain discrepancies pointed out, I voluntarily came forward and admitted an amount of Rs. 17,00,000/- towards unexplained cash credit in my savings bank account and Rs. 10,98,000/- towards unexplained investment and I promise that I will pay the resultant taxes at the earliest. Therefore, I pray that lenient view may kindly be taken towards penal consequences that are attracted as per the provisions of Income Tax Act, 1961.

*Sd/-xxx
Deponent*

The above statement is given out of my free will. There is no coercion or undue influence by anybody. The above statement is readover to me in the local language Telugu and the statement is recorded as per my version.”

9. Before CIT(A), no explanation was given and no evidence was produced. Therefore, the CIT(A) confirmed the order of the A.O. by observing as under:

“5. I have considered the submissions of the appellant and findings of the Assessing Officer carefully. The AR of the appellant could not contradict the findings of the Assessing Officer that an amount of Rs. 17,00,000/- and Rs. 10,98,000/- remained unexplained. The appellant deposited in the course of assessment proceedings in the statement u/s 131 of the IT Act that said amount is unexplained. The oral submission of the AR of the appellant did not conclusively prove that the said

amount(s) are unexplained. The source of huge amounts of cash deposits in the bank account of the assessee on several dates was not explained with any documentary evidence. However, the addition of Rs. 17 lakhs made by the Assessing Officer is proper on merits, same needs to be confirmed as an addition u/s 69B of the IT Act, instead u/s 68 of the IT Act.”

10. Considering the facts and circumstances of the case, in my view the decision taken by the CIT(A) is in accordance with law and no interference is called for. Accordingly, grounds raised by the assessee are dismissed.

11. In the result, appeal filed by the assessee is dismissed.

Order pronounced in the open court on 24th May, 2019.

Sd/-

(V. DURGA RAO)
JUDICIAL MEMBER

Hyderabad, Dated: 24th May, 2019.

OKK, Sr.PS

Copy to

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2.	Income Tax Officer, Ward-15(4), IT Towers, AC Gudards, Hyderabad.
3.	CIT (A)-7 , Hyderabad.
4.	Pr. CIT-7, Hyderabad.
5.	DR, ITAT, Hyderabad.
6.	Guard File