

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

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

ITA No. 964/Hyd/2017
Assessment Year: 2011-12

P. Srinivasulu Reddy, vs. Dy. Commissioner of
Nellore. Income-tax,
Circle – 1, Hyderabad

PAN – AFSP0551L

Assessee

Respondent

Assessee by: Shri A.V. Raghuram
Revenue by: Shri Dinesh Paduchuri

Date of hearing: 06/05/2019
Date of pronouncement: 05/07/2019

ORDER

PER S. RIFAUR RAHMAN, AM:

This appeal filed by the assessee is directed against the order of CIT(A), Tirupati, dated, 16/03/2017 for AY 2011-12.

2. Brief facts of the case are, the assessee, a salaried employee, e-filed his return of income for the AY 2011-12 on 13/08/2011 declaring total income of Rs. 18,96,100/-, which was processed u/s 143(1) of the Income-tax Act, 1961 (in short 'the Act'). Subsequently, the case was selected for scrutiny under CASS to verify the deposits made in the bank account. Accordingly, a notice u/s 143(2) was issued and duly served on the assessee. Further, a detailed questionnaire u/s 142(1) dated 14/08/2013 was issued and served on the assessee. In response to the above notices, the AR of the assessee furnished the details as called for.

2.1 On perusal of the bank accounts, the AO noticed that during the financial year 2010-11 relevant to the assessment year 2011-12, certain cash deposits were made in the bank accounts held by the assessee in HDFC bank, account No.01411000057046, ICICI Bank Account No. 631001115712 and HDFC bank account No.15369591 on various dates. The total deposits made in the above accounts are as under:

Sl.No.	Name and address of the bank	Amount of deposit (Rs.)
1	HDFC Bank, No. 10, 3 rd Cross street, Chennai. A/c No. 01411000057046	14,00,000/-
2	ICICI Bank, G.T. Road, Nellore. A/c No. 631001115712	18,55,000/-
3	HDFC Bank, L.B. Road, Adayar, Chennai (Account No. 15369591)	4,07,220
	Total	36,62,220/-

2.2 In order to verify the sources for the above cash deposits, the AO asked the assessee to explain the sources along with material evidence in support of his claims. However, Id. AR of the assessee was not able to explain the sources for cash deposits made in the above bank accounts. Hence, a show-cause letter dated 21.03.2014 was issued to the assessee calling for objections for proposed additions to the income returned. In response, the assessee's AR filed a letter on 28.03.14 offering point-wise explanation to the show-cause letter. Brief of his explanation is as under:

"With regard to deposits made in HDFC Bank, Chennai, the assessee explained that the account is a salary account and deposits made in such account out of his salary accumulations and previous withdrawal from HDFC bank through ATM, Cheque withdrawals by his staff. Further, in respect of deposits made in ICICI bank account, he stated that his mother and all his family members are staying at Maneguntapadu Village and all members are having agricultural lands in that village and doing agriculture operations. His mother's agricultural gross income was deposited in ICICI bank account, Nellore and the same was transferred to personal account of assessee held in HDFC Bank, Chennai".

2.3 The AO observed that in respect of HDFC bank account, salary is deposited. In addition to salary, an amount of Rs.14,00,000/- was deposited by way of cash on various dates. Further, he observed that the AR was neither able to explain the source nor produced any evidence with reference to Rs.14 lakhs of cash deposits. The AR's contention that amount was withdrawn and again deposited has no ground, as the ATM withdrawal was only a meager amount of Rs.3,64,000/- which could have been withdrawn for meeting his personal expenses. The AO, therefore, treated the said amount of Rs. 14,00,000/- as unexplained money u/s 69A of the Act and added the same to the returned income of the assessee.

2.4 Further, with regard to ICICI bank deposits, the AO observed that the assessee stated that his family members have operated the bank account and their agricultural income have been deposited in the account. However, the assessee has not furnished any evidence in support of agricultural land holdings by his mother or his family members during the assessment proceedings. The assessee submitted evidence in support of land holdings of 12 acres of dry land held by him and the income from such lands was admitted at Rs.1,50,000/- in the return of income filed by him in HUF capacity whereas the bank account is held in the name of individual and not in HUF capacity or by his family members and the deposits were made in the account at regular intervals during the period from July to December. Hence, the AO rejected the claim of the assessee that the cash deposited in the account is from HUF on the ground that the sources were not explained. Accordingly, the AO treated the deposits of Rs,18,55,000/- as

unaccounted money u/s.69A of the Act and added to the total income returned.

3. Aggrieved by the order of AO, the assessee preferred an appeal before the CIT(A).

4. The CIT(A) after considering the submissions of the assessee as well as remand report obtained from the AO and reply to the remand report by the assessee, tabulated the peak cash deposits consisting of both the Banks to see how much cash deposited is unexplained. Accordingly, worked out the combined peak cash credit after giving allowance for withdrawals. After reducing agricultural income of Rs. 3,00,000/- from the said amount, the addition of Rs. 27,21,000/- was treated as unexplained cash deposits by the CIT(A).

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 to the extent it is prejudicial to the assessee.

2. The learned CIT(A) erred in confirming the addition to the extent of 27,21,000 out of Rs.32,55,000 made as unexplained cash deposits in HDFC and ICICI bank.

3. The learned CIT(A) erred in not appreciating the fact that the assessee's only source of taxable income is Salary and there cannot be any undisclosed income and thereby erred in confirming the addition.

4. The learned CIT(A) while considering the agricultural income to the extent of Rs.3,00,000 erred in considering only the current year agricultural income of assessee and his HUF ignoring the income of Mother and also savings of past years agricultural income that could be available and thereby erred in holding the deposits in bank as not explained and confirming the addition.

5. The learned CIT(A) further erred in not considering the huge cash balance that is being shown in W.T. returns holding it to be only a passing remark made and not part of submission instead of considering the same also as a source for the deposits .

6. Any other ground that may be urged at the time of hearing.

6. Before us, Ld. AR submitted that assessee is a salaried employee and only salaries were deposited and the assessee has explained before AO that the family has agricultural land. The deposits made in these accounts were out of agricultural income. Further, he brought to our notice the Wealth Tax return as per which assessee was holding substantial cash balance and deposits were made out of such cash. He brought to our notice the statement of peak cash deposits prepared by CIT(A). He submitted that it is not clear how Id. CIT(A) has arrived the peak credit of Rs. 30.21. lakhs and on what basis. He prayed that this should be remitted back to AO for proper verification and assessment.

7. Ld. DR submitted that there was specific enquiry conducted in this case and findings of tax authorities are proper and correct. The claim of holding huge cash in wealth tax return is an after thought and there is no acknowledgment for filing of such wealth tax return. Further, he submitted that there is no return of income filed by any member of the family including assessee declaring agricultural income. The submissions of the assessee are not believable.

8 Considered the rival submissions and perused the material on record. Assessee maintained two separate bank accounts and one of them is salary account (HDFC Bank account). In this account, he deposited certain cash deposits and at the same time, there are certain withdrawals. He

submitted that all the deposits were made out of agricultural income of the family and personal accumulations. The documents submitted before tax authorities were verified by CIT(A) and AO in remand proceedings. Assessee could not explain the actual income out of agricultural activities. From the records, CIT(A) has arrived Rs. 3 lakhs as the maximum income assessee could have earned.

8.1 With regard to bank deposits, assessee submitted before CIT(A) to arrive the peak cash deposits, accordingly, CIT(A) calculated the peak credit but for some reason, he could not explain the same in his report. Now, Id. AR submits that CIT(A) has arrived the peak cash deposit, which is not clear. We verified the same and found to be correct. It is given below:

Date	Deposits	Withdrawals	Peak credit outstanding balance
01/04/10		15000	-15000
09/04/10		15000	-30000
12/04/10		25000	-55000
15/04/10		10000	-65000
17/04/10		5000	-70000
19/04/10		15000	-85000
21/04/10		20000	-105000
01/05/10		20000	-125000
02/05/10		20000	-145000
10/05/10	100000		-45000
22/05/10		10000	-55000
07/06/10		20000	-75000
12/06/10		20000	-95000
28/06/10		20000	-115000
01/07/10	100000		-15000
07/07/10	150000		135000
23/07/10		10000	125000
23/07/10	140000		265000
29/07/10		20000	245000
05/08/10		20000	225000
05/08/10		20000	205000
11/08/10	125000		330000
11/08/10	900000		1230000
12/08/10		10000	1220000
18/08/10	300000		1520000

19/08/10		10000	1510000
21/08/10	550000		2060000
28/08/10		10000	2050000
09/09/10	120000		2170000
13/09/10		20000	2150000
23/09/10		20000	2130000
02/10/10		10000	2120000
05/10/10		10000	2110000
16/10/10	250000		2360000
16/10/10	30000		2390000
11/11/10		10000	2380000
12/11/10	30000		2410000
25/11/10		20000	2390000
27/11/10		10000	2380000
04/12/10		5000	2375000
18/12/10	300000		2675000
22/12/10	520000		3195000

After considering the peak deposits and maximum agricultural income that could have been earned by the assessee and his family, we are inclined to accept the findings of Id. CIT(A). Accordingly, grounds raised by the assessee are dismissed.

8.2 Further, assessee claims that assessee always maintained huge cash balance, for which, he submitted the wealth tax return, we decline to accept the same as an after thought and the same was filed after completion of original assessment.

9. In the result, appeal of the assessee is dismissed.

Pronounced in the open court on 5th July, 2019.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Hyderabad, dated 5th July, 2019.

kv

Copy forwarded to:

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