

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

BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER

ITA No.	A.Y.	Appellant	Respondent
1060/Hyd/19	2012-13	Sri Ram Mohan Rapala, WARANGAL [PAN: AHAPR2964D]	Income Tax Officer, Ward-3, WARANGAL
1061/Hyd/19	2013-14		

For Assessee : Shri A.V.Raghu Ram, AR
For Revenue : Shri Nilanjan Dey, DR

Date of Hearing : 25-09-2019
Date of Pronouncement : 30-09-2019

ORDER

These are assessee's appeals for the AYs.2012-13 & 2013-14, directed against the order of the Commissioner of Income Tax (Appeals)-3, Hyderabad, respectively. Since the issue is common in both these appeals, both are heard together and are decided by this common and consolidated order. For the sake of convenience, appeal for the AY.2012-13 is discussed hereunder, in detail.

2. Brief facts of the case are that the assessee, an individual, running a stationery shop under the name and style 'Vasundhara Books Stationery and General Stores', did not file his return of income for the AY.2012-13. The Assessing Officer (AO) received information from Investigation Wing, Unit-II, Hyderabad that assessee has made huge cash

amounts into his bank account. Therefore, the assessee was directed to file return of income by issuance of notice u/s.148 of the of the Income Tax Act [Act].

In reply there to, the assessee filed his return of income on 03-09-2018, declaring total income of Rs.1,80,040/- for the AY.2012-13, u/s.44AD of the Act.

3. During the course of assessment proceedings u/s.143(3) of the Act, the AO observed that the assessee has deposited an amount of Rs.5 Lakhs in cash in ICICI bank account, Hanamkonda Branch, Warangal. When the assessee was asked to explain the sources for the deposits, assessee submitted that the deposits are out of accumulation of sale proceeds i.e., sale of books and stationery etc. The AO, however, observed that the assessee has not proved the identity, capacity and genuineness of the transactions and that he has not filed any sale documents or creditors list in support of his contentions. He therefore treated the sum of Rs.5 Lakhs as 'un-explained cash credits' and brought it to tax u/s.68 of the Act.

3.1. Aggrieved, the assessee preferred an appeal before the CIT(A), who confirmed the order of AO and assessee is in second appeal before ITAT, raising the following Grounds:

"1. The order of the learned CIT (A) is not only erroneous but is against principles of natural justice.

2. The learned CIT(A) erred in passing the order, without verifying the service of notice of hearing on the assessee.

3. The learned CIT(A) erred in confirming the action of the action of the AO in reopening of the assessment u.s.147.

4. The learned CIT(A) erred in confirming the addition of Rs.5,00,000/- made by the AO as unexplained cash credits ignoring the source in the form of sale proceeds which was brought to the notice of the AO during assessment proceedings”.

(Tax effect - Rs.1,54,500)

4. At the time of hearing, Ld.Counsel for the assessee submitted that the Ld.CIT(A) has passed the appellate order without giving any notice to the assessee. He therefore prayed that the Bench may remand the issue to the file of AO, particularly because, according to the assessee, the sum of Rs.5 Lakhs deposited into bank account is out of sale proceeds and that he will be in a position to satisfactorily produce the relevant documents to explain the sources of the deposits to the AO.

5. Ld.DR was also heard.

6. I have gone through the file and I find that the appeal was filed before the CIT(A) on 09-01-2019 and the Ld.CIT(A) has not mentioned the dates of hearing given to the assessee in the appellate order, except mentioning ‘as per the order sheet’ and the appeal was disposed-of on 17-05-2019. Ld.CIT(A) has also not recorded about the appearance or non-appearance of the assessee in response to the notice. Therefore, giving benefit of doubt to the assessee’s statement that there was no service of notice on him, before conclusion of

the appellate proceedings, I deem it fit and proper to remand the issue to the file of AO for verification of the assessee's contentions and for completing the assessment proceedings *Denovo* in accordance with law. Assessee is also directed to appear personally before the AO and file the necessary details for completion of the assessment proceedings.

7. In the result, appeal of the assessee for the AY.2012-13 is treated as allowed for statistical purposes.

AY.2013-14:

8. Since the facts of the case for AY.2013-14 are identical to the facts and circumstances in AY.2012-13 (supra), my findings in the above appeal, *mutatis mutandis*, would apply to this appeal as well. Hence, this appeal of assessee is also treated as allowed for statistical purposes.

9. To sum-up, the appeals of assessee for both the assessment years are treated as allowed for statistical purposes.

Order pronounced in the open court on 30th September, 2019

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Hyderabad, Dated: 30-09-2019

Copy to :

- 1. Sri Ram Mohan Rapala, Flat No.610, 6th Floor, Babukhan Estate, Basheerbagh, Hyderabad.*
- 2. Income Tax Officer, Ward-3, Warangal.*
- 3. CIT(Appeals)-3, Hyderabad.*
- 4. Pr.CIT-3, Hyderabad.*
- 5. D.R. ITAT, Hyderabad.*
- 6. Guard File.*