

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

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER**

ITA Nos. 1246 & 1247/Hyd/2018
Assessment Years: 2009-10 & 2010-11

Beeravalli Venkat Sai vs. Income-tax Officer,
Ram Reddy, Hyderabad. Ward – 4(2), Hyderabad.

PAN – AITPB 1435 H

Appellant

Respondent

Assessee by: Shri S. Rama Rao
Revenue by: Shri Sunku Srinivas

Date of hearing: 30/10/2019
Date of pronouncement: 15/11/2019

ORDER

PER P. MADHAVI DEVI, J.M.:

Both these appeals filed by the assessee are directed against separate orders of CIT(A) – 1, Hyderabad, both, dated 01/03/2018.

2. Brief facts of the case are that the assessee, an individual, did not file any return of income for the relevant AYs under consideration. The AO received information from ITO (Inv-1), Hyderabad that the assessee had made huge cash deposits of Rs. 83,78,700/- in to bank accounts during FY 2008-09 and of Rs. 56,60,450/- during FY 2009-10. Since the assessee did not file returns of income and to verify the sources of such cash deposits, the assessment was reopened u/s 147 of the Act.

2.1 During the reassessment proceedings, the assessee was asked to explain the sources for the cash deposits and, in reply, the assessee submitted that he is an agriculturist and a land lord doing cultivation of land and has not carried out any business activity during the AYs under consideration. He submitted that his family is residing in Hyderabad for education of his children and all the amounts deposited into the bank accounts are only from agricultural income. It was also submitted that the expenses and incomes of his father, mother and his wife also were deposited in his bank account as he is the only the male member of his family. He submitted that total extent of land of his family was 58.30 acres and in support of his submissions, he filed Pattadar Pass Books for the agricultural holdings held by self and family members, Bank account statements of Axis Bank and transactions narration sheets for the relevant period.

2.2 The AO, however, accepted the reasonable agricultural income @ Rs. 30 lakhs per annum from the entire agricultural land of 58.30 acres. He also observed that the assessee, in his sworn statement made before the ITO (Inv.-1), Hyderabad on 16/10/2015, had deposed that the cash deposits were from real estate business and some were collections from petrol bunk till the opening of current bank account. It was submitted that petrol bunk is in the name of assessee's spouse. The AO observed that the petrol bunk was started during 2012 but not during the previous years relevant to AYs before him. Therefore, he did not accept that the agricultural income is the only source for the bank deposits. He, therefore, treated the balance sum of Rs. 53,78,700/- for AY 2009-10 and Rs. 26,60,450/- for the AY 2010-11 as income from unexplained sources and brought the same to tax.

3. Aggrieved, the assessee preferred appeals before the CIT(A) for both the years under consideration and the CIT(A) confirmed the orders of AO and consequently, the assessee is in appeal before us.

4. Ld. Counsel for the assessee reiterated the submissions made before the revenue authorities and the Id. DR supported the orders of authorities below.

5. Having regard to the rival contentions and material on record, we find that undisputedly, entire family of the assessee is having land to the extent of 58.30 acres in a village at Nalgonda District. As seen from the land record and the Pattedar Pass Books, etc filed by the assessee, part of the lands are wet while the balance are dry lands. The AO has not examined the crops grown by the assessee to estimate the agricultural income at Rs. 30 lakhs per annum. Assessee had stated before the CIT(A) that the receipts on sale of agricultural produce deposited into the bank account were withdrawn and also be deposited into the bank account. He also explained the source of gross receipts to be from the agricultural operations and therefore, prayed that the entire amount should be treated as properly explained.

5.1 After going through the bank account statements, we find that assessee has been making cash deposits and also making corresponding cash withdrawals. Therefore, the contention of the assessee that the gross receipts from the agricultural operations were deposited, withdrawn and redeposited cannot be brushed aside in toto. The AO has relied upon the statement of the assessee recorded during the course of search, wherein he stated that he is also into various real estate business and cash deposits are from

receipts of such business as well. Therefore, we are inclined to accept that some of the deposits to be from real estate business, while the others are from cash withdrawals made earlier. In view of the same, we are inclined to treat 50% of the deposits, which have been treated as 'income from other sources' as unexplained and the balance 50%, we are inclined to accept the same as part of the agricultural income (in addition to Rs. 30 lakhs already treated as agricultural income by the AO) as redeposited into the bank account. Assessee gets relief accordingly. Thus, only 50% of the addition made by the AO is sustained.

6. In the result, both the appeals under consideration are treated as partly allowed.

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

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Hyderabad, dated 15th November, 2019.

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Copy forwarded to:

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2. *ITO, Ward – 4(2), IT Towers, AC Guards, Hyderabad.*
3. *CIT(A) – 1, Hyderabad*
4. *Pr. CIT – 1, Hyderabad.*
5. *The DR, ITAT, Hyderabad*
6. *Guard File*