

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' SMC Bench, Hyderabad**

Before Smt. P. Madhavi Devi, Judicial Member

ITA No.1790/Hyd/2017		
Assessment Year: 2013-14		
Shri Sudarshan Rao Avula Secunderabad PAN:ACCPA8892Q (Appellant)	Vs.	Income Tax Officer Ward 15(1) Hyderabad (Respondent)
Assessee by:	Sri B. Shanthi Kumar	
Revenue by:	Sri Sunku Srinivas, DR	
Date of hearing:	01/01/2020	
Date of pronouncement:	08 /01/2020	

ORDER

This is assessee's appeal for the A.Y 2013-14 against the order of the CIT (A)-7, Hyderabad, dated 14-09-2017.

2. Brief facts of the case are that the assessee, an individual, engaged in the business of running a hostel mess and manufacturing of paper plates, filed his return of income for the A.Y 2013-14 on 29.10.2014 admitting total income of Rs.1,99,900/-. The case was selected for scrutiny under CASS and during the assessment proceedings u/s 143(3) of the Act, the AO observed that the assessee has declared the gross receipts from mess at Rs.12,50,000/- and sales of paper plates at Rs.14.00 lakhs and net profit from both the businesses at Rs.3,18,898/-. He also noticed that the assessee has invested a sum of Rs.15,11,000/- for the purchase of fixed assets and that the assessee had also invested an amount of Rs.12.00 lakhs during the year. Therefore, the assessee was required to furnish

the information to prove the sources of such funds. The assessee furnished his reply.

3. From the details so furnished by the assessee, the AO noticed that the gross receipts from Mess as well as sale of Paper Plates was Rs.26,50,000/-, whereas the cash deposits in the Bank A/c of the assessee are at Rs.58,08,640/-. The difference of Rs.31,58,640/- was directed to be explained. The assessee accepted to treat the difference of the amount also as total turnover of the assessee and the income be estimated at 12.03% as offered by him on the declared receipts. Accordingly, AO treated the entire deposits as gross turnover of the assessee and estimated the income at 12.03% on the same which worked out to Rs.6,98,779/- and the AO accordingly brought it to tax.

4. The AO further noticed that the assessee has purchased furniture and Plant & Machinery of Rs.15,11,000/- and introduced it as capital along with cash deposits. The assessee was thus asked to explain the sources for the total of capital introduced of Rs.24,00,229/- (including the Plant & Machinery and cash deposits). The assessee could not explain properly and since the AO has already estimated the profit from business at Rs.6,98,779/-, he excluded the same from Rs.24,00,229/- to arrive at the net unexplained investment of Rs.17,26,750/- and brought it to tax. Aggrieved, the assessee preferred an appeal before the CIT (A) who granted partial relief by considering the opening capital b/f and also giving credit to the expenses debited to the capital a/c amounting to Rs.12,00,229/-. Thus, he arrived at the net capital introduced by the assessee at Rs.12.00 lakhs and thereafter, he proceeded to allow the profit

accepted by the assessee at Rs.3,79,881/- and the balance amount of Rs.8,00,119/- was treated as unexplained. Thus, the CIT (A) restricted the addition to Rs.8,20,119/-. Aggrieved, the assessee is in before the Tribunal by raising the following grounds of appeal:

“1. The CIT (A) is not justified in upholding addition of Rs.8,20,119/- out of the addition made by the AO at Rs.17,26,752/- towards unexplained investment.

2. The CIT (A) ought to have appreciated the explanation submitted both before the AO and before the CIT (A) and deleted the entire addition of Rs.17,26,252/- instead of restricting the same to Rs.8,20,119/-.

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

5. The learned Counsel for the assessee reiterated the submissions made before the authorities below and submitted that the unexplained cash deposits which have been considered as the gross receipts from the assessee by the AO and the income estimated thereon should also be considered as the sources of introduction of capital and also for purchase of the Machinery. He submitted that the assessee himself has already offered a sum of Rs.3,18,898/- and the AO has again worked out the profit of the unexplained cash deposits at Rs.6,00,779/- totaling to Rs.10.00 lakhs. As the CIT (A) has arrived at the total net capital of Rs.12.00 lakhs only, the profit of Rs.10.00 lakhs should be telescoped and the additions should be deleted.

6. The learned DR however, supported the orders of the authorities below.

7. Having considered the rival contentions and the material on record, I find that the gross deposits into the Bank

A/c have been treated as the gross business receipts of the assessee and the net profit thereon at Rs. 6,98,779/- has been arrived at, which has been accepted by the assessee. The addition to the capital in the form of Plant & Machinery and also cash deposits was asked to be explained. The CIT (A) has accepted the net profit of Rs.6,98,779/- as available source. The balance of Rs.17,01,450/- -(24,00,229)= 6,98,779/- remains to be explained. The CIT (A) has perused the capital A/c and has held that the AO has not deducted the expenses debited in the capital A/c amounting to Rs.12,00,229/- and has held that the correct capital introduced by the assessee during the year was Rs.12.00 lakhs only. I find that all the cash credits have been treated as the assessee's business receipts and the income there from has been estimated. If these receipts are to be considered to be of business receipts of the assessee, then they should also be considered available with the assessee for introduction of the capital in the form of Plant & Machinery and cash deposits. The gross receipts definitely exceeded the net capital of Rs.12.00 lakhs introduced by the assessee and the expenditure incurred by the assessee. Therefore, I am inclined to accept the contention of the assessee and delete the addition of Rs.8,20,119/- as confirmed by the CIT (A).

8. In the results, the assessee's appeal is allowed.

Order pronounced in the Open Court on 8th January, 2020.

Sd/-

**(P. MADHAVI DEVI)
JUDICIAL MEMBER**

Hyderabad, dated 8th January, 2020.

Vinodan/sps

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- 4 Pr. CIT – 7 Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

By Order