

IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH "B-SMC", HYDERABAD

BEFORE SHRI A. MOHAN ALANKAMONY,  
ACCOUNTANT MEMBER

ITA No.1361/Hyd/2019	
Assessment Year: 2011-12	
Sri Nanda Kumar Thoyakkat, Secunderabad – 500 015. PAN: ACZPT 6415 F  (Appellant)	Vs. Income Tax Officer, Ward-60(1), New Delhi (Now with ITO, Ward- 10(5), Hyderabad.  (Respondent)
Assessee by:	Sri P. Vinod
Revenue by:	Sri D.J.P. Anand, DR
Date of hearing:	16/01/2020
Date of pronouncement:	19/03/2020

ORDER

This appeal is filed by the assessee against the order of the Ld. CIT(A)-6, Hyderabad in appeal No. 10644/2018-19/B2/CIT(A)-6, dated 28/06/2019 passed U/s. 144 r.w.s 147 of the Act for the A.Y. 2011-12.

2. The assessee has raised the following grounds in his appeal:-

- “1. On the facts and in the circumstances of the case, the order of the CIT (A), allowing the appeal only in part is erroneous and unsustainable in law.
2. The Ld. CIT(A) erred in dismissing the ground with respect to assumption of jurisdiction u/s 148 of the Act by the A.O. without serving notice U/s. 148 of the Act on the appellant.

3. *The Ld. CIT(A) erred in sustaining the assessment proceedings which has been made without service of notices U/s. 148 and U/s. 142(1) of the Act.*
4. *Without prejudice, the Ld. CIT(A) erred in upholding that the addition to the extent of Rs. 4,72,899/-. The CIT(A) failed to appreciate that there are sources to explain such deposits.”*

3. Brief facts of the case are that the assessee is an individual engaged in the profession as software consultant. The assessee did not file his return of income for the A.Y. 2011-12. During the A.Y. 2011-12, the Ld. A.O. has received specific information from Non-filers Monitoring System (NMS) that the assessee had deposited cash aggregating to Rs. 10,08,000/- in his Kotak Mahindra Bank account during the FY 2010-11 relevant to the A.Y. 2011-12. Thereafter, the Ld. A.O. issued notice U/s. 148 of the Act requiring the assessee to furnish the return of income for the A.Y. 2011-12. Since, there was no response from the assessee to the said notice, the Ld. A.O. completed the assessment ex-parte U/s. 144 r.w.s 147 of the Act and passed order dated 24/12/2018 wherein the total income of the assessee was assessed at Rs. 10,08,000/- under the head unexplained money etc., invoking the provisions of section 69A of the Act. On appeal, the Ld. CIT(A) granted relief to the extent of Rs. 5,35,101/- by telescoping the salary earned by the assessee of Rs. 5,05,350/- and Rs. 29,751/- towards income earned from profession. Accordingly, the Ld. CIT (A) sustained the addition of Rs. 4,72,899/- (Rs. 10,08,000 – Rs. 5,35,101).

Aggrieved by the decision Ld. CIT(A), the assessee is in appeal before the Tribunal.

4. At the outset, though I appreciate the ld. CIT (A) for having deleted the addition of Rs. 5,35,101/- by telescoping the income earned by the assessee, I find that he has not considered the accumulated earnings of the assessee. Considering the profession in which the assessee is engaged and the financial background of his family, it can be safely presumed that the assessee would have accumulated cash at least for an amount of Rs. 5 lakhs over a period of time. Moreover, the assessee has produced before me the details of the bank account maintained with HDFC Bank as additional evidence from which it is apparent that the assessee had received loan from Mr. S.K. Sinha for Rs. 5 lakhs vide cheque No. 790080 dated 14/07/2010. In this situation, it will not be appropriate to treat the amount of Rs. 4,72,899/- as his unexplained money. Therefore, I hereby direct the Ld. AO to delete the entire addition of Rs. 10,08,000/- made in the hands of the assessee invoking the provisions of section 69A of the Act. Since I have disposed off the matter on merits, I refrain from adjudicating the jurisdictional issue raised by the assessee.

5. In the result, appeal of the assessee is allowed.

Pronounced in the open Court on 19<sup>th</sup> March, 2020.

Sd/-  
(A. MOHAN ALANKAMONY)  
ACCOUNTANT MEMBER

Hyderabad, Dated: 19<sup>th</sup> March, 2020.

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Copy to:-

- 1) Nanda Kumar Thoyakkat, Flat No.610, 6<sup>th</sup> Floor, Babukhan Estate, Basheerbagh, Hyderabad – 500 001.
- 2) Income Tax Officer, Ward-60(1), New Delhi, Now with ITO, Ward-10(5), Hyderabad, IT Towers, AC Guards, Masab Tank, Hyderabad.
- 3) The CIT(A)-6, Hyderabad
- 4) The Pr. CIT-6, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File