

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD 'A-SMC' BENCH : Hyderabad**

Before Shri A. Mohan Alankamony, Accountant Member

**ITA No. 815/Hyd./2019
Assessment Year: 2014-15**

Sh. Ramasahayam Jayanth Reddy
H.No.3-23, Palair Main Road
Kusumanchi Mandal
6-3-655/2/3, Somajiguda
Khammam 507 001

vs. ITO Ward 1
Khammam

PAN: ALLPR9022K

(Appellant)

(Respondent)

For Assessee: Smt. S. Sandhya, A.R.

For Revenue: Sh. M. Murthy Nair, D.R.

Date of Hearing : 23/01/2020

Date of Pronouncement : 05/06/2020

ORDER

This appeal is filed by assessee aggrieved by the order of the Ld.CIT(A)-8 dated 14.02.2019 in ITA No. 10272/CIT(A)-8/Hyd/2018-19 for the A.Y. 2014-15.

2. The assessee has raised several grounds in his appeal. However, the crux of the issue is that the Ld.CIT(A) has erred in upholding the order of the Ld.AO who had made addition of Rs.16,65,000/- being the expenditure incurred by the assessee towards hotels and restaurants for which source is not explained.

3. The brief facts of the case are that the assessee is an individual earning income from agriculture and income from other sources. Information was received from NMS that the assessee had made payments to hotels and restaurants to the tune of Rs.16,65,000/- based on which a letter was issued

to the assessee on 06.05.2016 calling for the explanation for the source of income for making payments to hotels and restaurants. Thereafter the assessee filed his return of income for the relevant A.Y. 2014-15 on 14.06.2017 admitting total income of Rs.1,50,000/-. Subsequently, the case was taken up for scrutiny. On query with respect to the source of expenditure incurred by the assessee, it was explained by the Ld.A.R. that basically the assessee is an agriculturist owning 20.33 acres of agricultural land at Pallair Village Kusumanchi Mandal, Khammam District. The Ld.AR also submitted copy of the Pattadar Pass book of the land owned by the assessee. It was also explained that the assessee had inherited the agricultural land from his ancestors. The Ld.AR further submitted that the assessee is cultivating the agricultural land since he inherited the land and was earning good amount of agricultural income. It was further submitted that the assessee has one daughter and one son and the expenditure incurred for Rs.16,65,000/- was with respect to the payments made to hotels and restaurants, on the occasion of the marriage of the assessee's daughter. The Ld.AR further submitted that the entire expenditure was made out of the agricultural income earned by the assessee over a period of time. However, since the assessee had not submitted the bank account details, the Ld.AO opined that the sources of income towards the payments made to hotels and restaurants were not properly explained. Hence Ld.AO made addition of Rs.16.65,000/- in the hands of the assessee invoking provisions of Sec.144 of the Income Tax Act, 1961 (the Act) because neither the assessee nor his counsel appeared furnishing the details of bank accounts though several letters were issued and the case was getting time barred by limitation.

4. On appeal the Ld.CIT(A) also passed an ex-parte order as the assessee had failed to appear before him. The Ld.CIT(A) has opined that since the evidence or details were not filed by assessee during the appellate proceedings, the order of Ld.AO does not call for any interference. Accordingly he confirmed the order of the Ld.AO.

5. Before me the Ld.AR vehemently argued stating that the assessee is only an agriculturist owning extensive agricultural land and the entire income earned by him is from agricultural operations. The Ld.AR further submitted that the expenditure incurred by the assessee towards payments made to hotels and restaurants to the tune of Rs.16,65,000/- was with respect to the marriage function of his daughter. The Ld.AR further argued that the assessee had also produced the proof of owning the agricultural land by the assessee and accrual of agricultural income was not disputed by the Ld.Revenue authorities. Ld.AR further submitted that the entire addition made by the Ld. Revenue authorities was for the only reason that the assessee had not produced the bank pass book to establish the accumulation of funds. The Ld.AR prayed that the agriculturist in remote areas often do not accumulate the funds in the bank account but keep it under various other forms which will be utilised for necessities at the appropriate time. It was, therefore, pleaded that the addition made by the Ld.AO may be deleted.

5. Ld.DR on the other hand vehemently argued in support of the orders of Ld. Revenue authorities and pleaded for confirming their orders.

6. I have heard the rival submissions and carefully perused the materials on record and I find merit in the submissions of the Ld.AR. There is not doubt that the assessee is in possession of agricultural land to the extent of 20.33 acres which is evidenced by the pattadar pass book. The Revenue has not disputed the same either. Moreover, there is nothing on record to establish that the assessee was not earning agricultural income. For an agriculturist owning more than 20 acres of land, it is quite normal to accumulate funds to the extent of approximately Rs.20 lakhs over a period of time in order to meet the marriage expenditure of his daughter. It is not necessary for an agriculturist to accumulate the entire savings from agricultural income in the bank account. He is at liberty to retain the same in various other forms and utilise at the time of need. Therefore, considering the facts and circumstances

of the case, I am of the view that the addition made by the Ld.AO which is further sustained by the Ld.CIT(A) is not warranted. Hence I hereby direct the Ld.AO to delete the addition made for Rs.16,65,000/- towards the payments made by assessee to hotels and restaurants by treating the source of such expenditure as not established.

6.1. Before parting, it is worthwhile to mention that this order is pronounced after 90 days of hearing which is though against the usual norms, I find it appropriate taking into consideration of the extra-ordinary situation in the light of the lock-down due to Covid 19 pandemic. While doing so I have relied in the decision of Mumbai Bench of the Tribunal in the case of DCIT vs. JSW Ltd. In ITA No.6264/M/2018 and 6103/M/2018 for AY 2013-14 order dated 14th May, 2020.

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

Order pronounced in Open Court on the 05th June, 2020.

Sd/-

(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Dated: 05th June, 2020.

**GMP*

Copy forwarded to:

1. Sri Ramasahayam Jayanth Reddy, HNo.3-23, Palair Main Road, Kusumanchi Mandal, Khammam 507 001.
2. ITO, Ward 1, Khammam
3. ACIT, Khammam Range, Khammam/CIT(A)-8 Hyd.
4. Pr.CIT-7, Hyderabad
5. D.R. ITAT Hyderabad
6. Guard File

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| 1. | Draft dictated on | 02/06/2020 |
| 2. | Draft placed before the author | 04/06/2020 |
| 3. | Draft placed before the second Member | |
| 4. | Draft approved by second Member | |
| 5. | Approved Draft comes to SrPS | |
| 6. | Kept for Pronouncement | 05/06/2020 |
| 7. | File sent to Bench Clerk | |