

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

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

ITA No.1731/Hyd/2017		
Assessment Year: 2009-10		
Krishna Mohan Reddy Tummalapalli, 1-2-217/9, Street No.10, Domalaguda, Hyderabad. PAN: ACHPT 3472 A	Vs.	Income Tax Officer, Ward-4(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Smt. S. Sandhya	
Revenue by:	Sri M. Murthy Naik, DR	
Date of hearing:	23/01/2020	
Date of pronouncement:	10/06/2020	

ORDER

PER A. MOHAN ALANKAMONY, AM.:

This appeal is filed by the assessee against the order of the Ld. CIT (A)-1, Hyderabad in appeal No. 0527/CIT (A)-1/Hyd/2014-15/2017-18, dated 01/06/2017 passed U/s. 143(3) r.w.s 250(6) of the Act for the AY 2009-10.

2. The assessee has raised several grounds in his appeal and they are summarised herein below for adjudication: -

- (i) The Ld. CIT (A) has erred in confirming the order of the Ld. AO who had disallowed the claim of expenditure incurred for Rs. 19,046/- by stating it to be expenditure incurred for persons expenses.
- (ii) The Ld. CIT (A) has erred in confirming the order of the Ld. AO who had made addition of Rs. 75,000/- on the ground of undisclosed rental income received by the assessee from NTPC.
- (iii) The Ld. CIT (A) has erred in confirming the order of the Ld. AO who had made addition of Rs. 3,95,345/- on the ground of business receipt not disclosed in the return of income.
- (iv) The Ld. CIT (A) has erred in confirming the order of the Ld. AO who had made addition of Rs. 12 lakhs being the amount deposited in the bank account of the assessee by holding that the source is not explained.

- (v) The Ld. CIT (A) has erred in confirming the order of the Ld. AO who had levied interest U/s. 234A & 234B of the Act.

3. The brief facts of the case are that the assessee is an individual engaged in the business of providing Security Services filed his return of income for the AY 2009-10 on 25/02/2010 declaring total income of Rs. 3,39,480/-. Thereafter, the case was taken up for scrutiny and the assessment was completed U/s. 143(3) of the Act on 28/12/2011 wherein the Ld. AO made several additions which was further upheld by the Ld. CIT (A).

4. **Ground No.(i):** Disallowance of the claim of expenditure for Rs. 19,046/-.

5. During the course of assessment proceedings, it was observed by the Ld. AO that the assessee had claimed conveyance expenses of Rs. 67,119/- and 28,114/-. Since proper explanation was not provided by the assessee the Ld. AO opined that certain amount would have been incurred for personal purposes and therefore disallowed an amount of Rs. 19,046/- as allowable

deduction. On appeal, the Ld. CIT (A) held the issue against the assessee because the assessee had neither disputed the disallowance nor provided any details.

6. Before us, the Ld. AR vehemently argued stating that the disallowance made by the Ld. AO which was further upheld by the Ld. CIT (A) is erroneous because the entire claim of conveyance expenditure was incurred with respect to the business of the assessee. Hence it was prayed that the addition made by the Ld. AO which was further upheld by the Ld. CIT (A) may be deleted. After hearing both sides, and perusing the materials on record, we find that the Ld. AO has disallowed 20% of the claim of conveyance expenditure aggregating to Rs. 95,233/- because no proper explanation was submitted by the assessee. Further there was scope for conveyance expenditure being incurred for personal purposes which is embedded in the total claim of conveyance expenditure. The assessee had also not furnished proper explanation before the Ld. CIT (A) therefore he confirmed the order of the Ld. AO. In this situation, we do not find much strength in the arguments advanced by the ld. AR. However, considering the facts of the case, I am of view that the disallowance of Rs. 20% of the total claim of conveyance expenses would be on the higher side

and accordingly sustaining the disallowance of conveyance expenditure at 15% of the total claim of conveyance expenditure which works out to be approximately Rs. 14,000/-. It is Ordered accordingly.

7. **Ground No.(ii):** Addition of Rs. 75,000/- towards undisclosed rental income.

8. During the course of scrutiny assessment proceedings, the Ld. AO observed from the AIR data that the assessee had received Rs.75,000/- as rental income from NTPC. However, on perusing the return of income it was revealed that the assessee has not disclosed the same. The assessee also failed to furnish details as regards to the rental income earned by him from NTPC. Hence, the Ld. AO added the undisclosed rental receipt to the income of the assessee. The Ld. CIT (A) in his order has mentioned that the assessee admitted for having failed to disclose the rental income received from NTPC for Rs. 75,000/- in his return of income. Therefore, the Ld. CIT (A) confirmed the order of the Ld. AO. Before us also neither the assessee nor the Ld. AR could produce any details for deleting the addition. In this situation, we do not have any other alternative but to confirm the orders of the Ld. Revenue

Authorities on the issue. Accordingly, this ground is decided against the assessee.

9. **Ground No.(iii):** addition of Rs. 3,95,345/- towards undisclosed business receipts.

10. During the course of scrutiny assessment proceedings, it was observed by the Ld. AO from Form No. 26AS and AIR data that the assessee had received from various party's amount aggregating to Rs. 35,46,114/-. However, on perusing the return of income it was revealed that the assessee was declared only Rs. 16,38,081/- as his business receipts. Since the assessee could not justify the discrepancy, the ld. AO estimated 20.72% of the difference between the declared income and the total income received by the assessee as the undisclosed business income earned by him which works out to Rs. 3,95,344/- [(Rs. 35,46,114 – Rs. 16,38,081) = Rs. 19,08,081/-. $20.72 \times \text{Rs. } 19,08,081 \div 100 = \text{Rs. } 3,95,344$]. Since the assessee did not provide any further explanation before the Ld. CIT (A), the Ld. CIT (A) confirmed the order of the Ld. AO. Before us also, the Ld. AR could not produce any material to justify the discrepancy observed by the Ld. Revenue Authorities. However, considering the nature of business conducted by the assessee, and

the expenditure the assessee would have incurred for earning such income, I am of the view that an estimate of 15% of the undisclosed business receipts would suffice to meet the ends of the justice for both parties. Accordingly, we hereby direct the Ld. AO to sustain the addition of Rs. 2,85,000/- [Rs. 19,08,081 X 15 ÷ 100 = Rs. 2,86,212. R/o. 2,85,000] as against the disallowance made by the Ld. AO of Rs. 3,95,344/- which is further confirmed by the Ld. CIT (A).

11. **Ground No.(iv):** addition of Rs. 12 lakhs being cash deposited in bank and the source of which remained unexplained.

12. During the course of scrutiny assessment, it was observed by the Ld. AO that the assessee had deposited cash of Rs. 12 lakhs in his SB Account No. 69136 on 16/07/2008 which was subsequently withdraw on 22/7/2008. From the other bank accounts maintained by the assessee, it was further revealed that there were no withdrawals to justify the cash deposit of Rs. 12 lakhs. The assessee also did not provide any details to the Ld. AO to explain the source of cash deposit. Therefore, the Ld. AO added the same to the income of the assessee. Before the Ld. CIT (A) also the assessee has not produced any details to explain the source of

the bank deposits of Rs. 12 lakhs. Therefore, the Ld. CIT (A) confirmed the order of the Ld. AO. Even before us, the Ld. AO could not furnish any convincing material to explain the source of the bank deposit. However, the AR argued by stating that the amount deposited in the bank was out of the income earned by the assessee which was already taxed.

13. After hearing both sides and perusing the fact that the assessee has disclosed total income of Rs. 3,39,490/- in his return of income for relevant assessment year and the addition sustained by us for Rs. 2,80,000/- towards undisclosed receipts for which telescoping effect has to be given and the accumulated earnings of the assessee, I am of the view that an addition of Rs. 6 lakhs would suffice to explain the source for the bank deposit of Rs. 12 lakhs. Accordingly, I hereby sustain the addition of Rs. 6 lakhs on this count. It is ordered accordingly.

14. **Ground No. (v):** Levy of interest U/s. 234A & 234B of the Act

15. Levy of interest U/s. 234A and 234B of the Act is consequential in nature and accordingly the ground does not survive.

16. Before parting, it is worthwhile to mention that this order is pronounced after 90 days of hearing the appeal 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.

17. In the result, the appeal of the assessee is partly allowed.

Pronounced in the open Court on 10th June, 2020.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 10th June, 2020.

OKK

Copy to:-

- 1) Krishna Mohan Reddy Tummalapalli, 1-2-217/9, Street No.10, Domalaguda, Hyderabad.
- 2) Income Tax Officer, Ward-4(1), IT Towers, A.C. Guards, Hyderabad.
- 3) The CIT (A)-1, Hyderabad.
- 4) Pr. Commissioner of Income Tax-1, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File