

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

**SMT. P. MADHAVI DEVI, JUDICIAL MEMBER AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER
(THROUGH VIDEO CONFERENCE)**

ITA No. 130/Hyd/2019
Assessment Year: 2007-08

Sadiq Aunali, vs. Income-tax Officer,
Salehmohamed, Ward – 7(1), Hyderabad.
Hyderabad.

PAN – ANDPS 7428Q

Appellant

Respondent

Assessee by: Shri Laxminiwas Sharma
Revenue by: Smt. M. Narmada

Date of hearing: 15/07/2020
Date of pronouncement: 29/07/2020

ORDER

PER SHRI A. MOHAN ALANKAMONY, A.M.:

This appeal is filed by the assessee aggrieved by the ex-parte order of Ld. CIT (A)-3, Hyderabad in ITA No. 10422/ITO-(7)(1)/Hyd/CIT(A)-3/2017-18, dated 13/12/2018 passed U/s. 250(6) r.w.s 147 & 143(3) of the Act for the AY 2007-08. This appeal was heard through virtual hearing on 15/07/2020.

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 confirming the order passed by the Ld. AO who had made addition of Rs. 3,33,54,245/- with respect to the peak balance

credited in the bank account maintained by the assessee abroad”.

3. The brief facts of the case are that the assessee is an individual and resident of India filed his return of income on 30/01/2008 declaring total income of Rs. 62,657/-. Subsequently, information was received from the DDIT (Inv.) Unit-1(1), Hyderabad that the assessee was maintaining an account with HSBC Bank, Geneva, Switzerland. On query, the assessee submitted that he was a Tanzanian Citizen until the year 2012 and during the year 2012 he had obtained Indian Citizenship. It was revealed by the Investigation wing of the Revenue that the assessee had opened a bank account in HSBC Bank at Geneva on 27/4/2006 jointly along with certain other individuals. Therefore, the case of the assessee was reopened U/s 147 & 148 of the Act and finally assessment was completed on 29/12/2016 wherein the Ld. AO computed the peak credit in the assessee's foreign bank account which worked out to Rs. 3,33,54,245/- (\$ 7,34,675.24) and added to the income of the assessee because the assessee could not establish that the amount deposited in the bank account maintained abroad does not belong to him.

4. The Ld. AO had arrived at such conclusions based on the materials on record since the assessee had not cooperated before the Ld. AO in his proceedings. The Ld. CIT (A) also passed an ex-parte order confirming the order of the Ld. AO based on the materials on record because even before him the assessee did not adequately co-operate in the proceedings.

5. Before us, the Ld. AR made elaborate submissions. He submitted that the assessee's uncle along with certain other members of the family and the assessee had opened the bank account in Geneva and had transacted some amount in the bank account. The Ld. AR further submitted that though the assessee had signed the account opening form he was not aware of the transactions made in the bank account by the assessee's uncle. He further argued stating that the assessee never received any money from those transactions nor contributed any money in that bank account. He further explained stating that subsequently due to family disputes the assessee parted relationship with his uncle. It was therefore pleaded that since the assessee did not own any cash in the bank account maintained abroad, the addition made by the Ld. Revenue Authority which was further confirmed may be deleted. The Ld. DR on the other hand vehemently argued in support of the orders of the Revenue Authorities and prayed for confirming the same.

5. We have heard the rival submissions and carefully perused the materials on record. From the facts of the case, we are of the view that the assessee has not fully satisfied the Ld. Revenue Authorities with respect to the onus cast upon him to explain the transaction made in the bank account maintained abroad along with the other members of the family. It also appears that the assessee has not fully co-operated with the Ld. Revenue Authorities in their proceedings. We also find that the Revenue has also not even made any attempt to make any enquiries from the other members of the family with whom the

assessee had jointly maintained the bank account in Geneva taking aid from the International Treaty. Therefore, the Revenue has also failed to comply with the obligation cast upon them to carry out the investigation in a fair manner. Once the assessee has stated a possible fact/truth then it is pertinent on the part of the Revenue to fairly verify the same. Considering these facts and circumstances of the case, in the interest of the justice, We hereby remit the matter back to the file of the Ld AO for fresh consideration with direction to admit and examine any evidence produced by the assessee even if it is for the first time and thereafter decide the matter in accordance with law and merit. At the same time, we also direct the assessee to promptly cooperate before the Ld. Revenue Authorities in their proceedings failing which they shall be at liberty to pass appropriate orders based on the materials on record.

6. In the result, appeal of the assessee is allowed for statistical purposes.

Pronounced in the open court on the 29th July, 2020.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, dated 29th July, 2020.

okk

Copy forwarded to:

1. *Shri Sadiq Aunali Salehmohamed, H.No. 202, Nova Plaza D. No. 10-2-348/1to 4, Opp. Police Station, Asif Nagar, Hyderabad.*
2. *ITO, Ward – 7(1), Room No. 806, 8th Floor, Signature Towers, Kondapur, Hyderabad – 500 084*
3. *CIT(A) - 3, Hyderabad*
4. *Pr. CIT - 3, Hyderabad*
5. *The DR, ITAT, Hyderabad*
6. *Guard File*