

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

BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

ITA No.798/H/2016		
Assessment Year: 2011-12		
Sri Brij Gopal Gilada, Hyderabad. PAN: ABRPG 3340 B	Vs.	Income Tax Officer, Ward-5(3), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Sri A. Srinivas	
Revenue by:	Sri DJP Anand, DR	
Date of hearing:	24/02/2020	
Date of pronouncement:	10/07/2020	

ORDER

PER A. MOHAN ALANKAMONY, AM.:

This appeal is filed by the assessee against the order of the Ld. CIT (A)-4, Hyderabad in appeal No. 0100/14-15/ITO, Wd-5(3)/CIT (A)/Hyd/15-16, dated 28/03/2016 passed U/s. 144 r.w.s 147 and U/s. 250(6) of the Act for the AY 2011-12.

2. The assessee has raised the following grounds before us:-

1. *The order of the Appellate Commissioner is contrary to law, facts and circumstances of the case.*
2. *The Appellate Commissioner ought not to have passed an order confirming the additions / disallowance without waiting for the remand report called by her.*
3. *The Appellate Commissioner ought not to have passed an order without seeking for the clarifications from the Appellate vis-à-vis*

remand report and the submissions made during the course of hearing.

4. *The appellate commissioner ought not to have confirmed the disallowance of Rs. 1,25,456/- made by the AO.*
5. *The Appellate Commissioner ought not to have confirmed an amount of Rs. 51,39,000/- as unexplained cash credits made by the AO.*
6. *The appellate Commissioner ought not to have confirmed the amount of Rs. 1,07,159/- being difference in interest made by the AO.*
7. *Any other ground which the assessee might urge either at or before the date of hearings.”*

3. The brief facts of the case are that the assessee is an individual engaged in the profession as Chartered Accountant filed his return of income for the AY 2011-12 on 27/03/2012 admitting taxable income of Rs. 2,56,680/-. Initially the return was processed U/s. 143(1) and thereafter the case was taken up for scrutiny and finally assessment was completed on 30/3/2014. Before the Ld. CIT (A), the assessee submitted his explanations along with details of bank account, cash book and also details of his spouse. Thereafter Ld. CIT (A) called for a remand report from the ld. AO with respect to the additional evidence furnished before him for the first time. However, the Ld. AO failed to respond to the directions of the Ld. CIT (A). Thereafter the Ld. CIT (A) dismissed the appeal of the assessee.

4. Before us, the Ld. AR vehemently argued by stating that the Ld. CIT (A) has passed order in limine without awaiting for the remand report from the Ld. AO and without considering the additional evidence

submitted before the Ld. CIT (A) such as all the details with respect to the cash deposits in the bank account and the other irregularities observed by the ld. AO. It was therefore pleaded that the matter may be remitted back to the file of the Ld. AO for fresh consideration. The Ld. DR though vehemently argued in support of the orders of the Revenue Authorities could not successfully controvert to the submission of the Ld. AR.

5. We have heard the rival submissions and carefully perused the materials available on record and we find merit in the submissions of the Ld. AR. the Ld. CIT (A) ought to have obtained the remand report from the Ld. AO before arriving at his conclusions. It also appears that the Ld. CIT (A) has passed the order without properly examining the submissions and the documents filed by the assessee. Therefore, in the interest of justice, we hereby remit back the matter to the file of the Ld. AO for de novo consideration. It is ordered accordingly.

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

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

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 10th July, 2020.

OKK

Copy to:-

- 1) Sri Brij Golpal Gilda, 5-9-191, 3rd Floor, Brindavan Commercial Complex, Abids, Hyderabad – 500 001.
- 2) Income Tax Officer, Ward-5(3), Hyderabad.
- 3) The CIT (A)-4, Hyderabad.
- 4) Pr. CIT-4, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File