

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

(Through Video Conferencing)

Before Smt. P. Madhavi Devi, Judicial Member

**ITA No. 792/Hyd./2018
A.Y. 2009-10**

Sri Janardhan Reddy Sama
8-6-134/3 FCI Colony
Vanastalipuram
Hyderabad 500 070

vs. ITO, Ward 9 (1)
Hyderabad

PAN: BJEPS6092N

(Appellant)

(Respondent)

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

For Revenue: Sh. Ravi Babu, D.R.

Date of Hearing : 29/09/2020

Date of Pronouncement 30/09/2020

ORDER

This is assessee's appeal for the A.Y. 2009-10 against the order of Ld.CIT(A)-7, Hyderabad dated 23.02.2018.

This appeal has been taken up for hearing through video conferencing on 29.09.2020 and both the parties were heard.

2. Brief facts of the case are that the assessee, an individual, deriving income from business of real estate, rental income etc. filed his return of income on 17.11.2009 for the relevant AY admitting an income of Rs.3,50,490/-. The return was selected for scrutiny under CASS and the scrutiny assessment was completed u/s 144 of the I.T.Act, 1961 determining taxable income at Rs.41,29,490/- by treating cash deposits into bank account

of the assessee in ICICI bank as unexplained income of the assessee and making an addition of Rs.37,79,001/- to the returned income of the assessee. Aggrieved, assessee preferred an appeal before the CIT(A) and thereafter before the ITAT and the Tribunal remanded the matter back to the AO with certain directions. During the remand proceedings, the AO called for certain details and thereafter completed the assessment by assessing the income at Rs.45,18,830/-. Aggrieved, assessee preferred an appeal before the CIT(A) who confirmed the assessment order due to non-submission of details by the assessee in support of his claim.

2.1. Aggrieved by this order of the CIT(A), the assessee is in appeal before the Tribunal by raising the following grounds of appeal.

- 1) The order of the Ld.CIT(A) is erroneous both on facts and in law.*
- 2) The Ld.CIT(A) erred in confirming the addition made of Rs.34,50,840/- as the unexplained income of the appellant.*
- 3) The Ld.CIT(A) ought to have seen that the amount of Rs.7,17,500/- being the difference in gross receipts is taxed separately and is available for depositing the same in the bank account.*
- 4) Any other ground/grounds that may be urged at the time of hearing.*

2.2. Ld.Counsel for the assessee submitted that it is a fact that though the Assessee's Counsel had appeared before the CIT(A) and sought time to file the details, due to reasons beyond his control, the assessee could not furnish the information before the CIT(A) due to which CIT(A) confirmed the assessment order. Ld.Counsel for assessee prayed for another opportunity to present assessee's case before the CIT(A).

2.3. Ld.DR, on the other hand, opposed the remand of the issue to the file of CIT(A), submitting that this is the second round of proceedings before the CIT(A) and the assessee has not furnished any evidence, therefore, assessee should not be given another opportunity.

3. Having regard to the rival contentions and the material placed on record, I find that undisputedly this is the second round of litigation before the AO and the CIT(A). It is also not disputed that assessee could not furnish any evidence before the CIT(A). However, I find that the CIT(A) has not disposed of the appeal of the assessee on merits but merely has confirmed the assessment order. In view of the same, I deem it fit and proper to remand the issue to the file of CIT(A) with a direction to dispose the appeal by passing a speaking order after taking into consideration the information/evidence filed by assessee ad after giving the Assessee a fair opportunity of hearing. It is also directed that the assessee shall file the evidence/information in his possession within such time allowed by the CIT(A) and cooperate for early disposal of the appeal.

4. In the result, assessee's appeal is treated as allowed for statistical purposes.

Order pronounced on 30th September, 2020.

Sd/-

**(P. MADHAVI DEVI)
JUDICIAL MEMBER**

Dated: 30th September, 2020.

*gmv

Copy forwarded to:

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2. ITO, Ward 9 (1), Hyderabad.
3. CIT(A)-7, Hyderabad
4. Pr.CIT, Hyderabad.
5. DR, ITAT, Hyderabad.
6. Guard File.