

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

(Through Video Conference)

Before Smt. P. Madhavi Devi, Judicial Member

**ITA No. 1292/Hyd./2019
Assessment Year: 2012-13**

Sh. Kiran Venkat Anand Sanaka, vs. ITO, Ward 9(1)
Hyderabad Hyderabad

PAN: BCTPS2882L

(Appellant)

(Respondent)

For Assessee: Sh. Bandari Rajesham, Adv.
For Revenue: Sh. Sunil Kumar Pandey, D.R.

Date of Hearing : 10/12/2020
Date of Pronouncement : 17/12/2020

ORDER

This is assessee's appeal against the order of CIT(A)-7, Hyderabad dated 14.06.2019 relating to A.Y. 2012-13.

This appeal was taken up for hearing through Video Conference on 10.12.2020 and both the parties were heard.

2. Brief facts of the case are that the assessee is an individual. On verification of information available with the Department it was found that the assessee has made cash deposits of Rs.12,21,658/- in his bank accounts maintained with Cosmos Co-Operative Bank and Royal Bank of Scotland during the F.Y. 2011-12 relevant to A.Y. 2012-13.

2.1. Since it was found that the assessee has not filed his return of income for the relevant A.Y., a notice u/s 148 of the Income Tax Act, 1961 (the Act) was issued to the assessee on 23.3.2018. During the assessment proceedings u/s 147 of the Act, the assessee was required to explain the sources of cash

deposits. The assessee explained that the funds deposited in the bank account does not belong to him but that they belong to M/s MPM Hotels Pvt. Ltd. but in support of the same, he did not file any documentary evidence. Further the M.D. of M/s MPM Hotels Pvt. Ltd., in his statement before the Investigation Wing, denied that such funds belong to M/s MPM Hotels Pvt. Ltd. Thereafter, the assessee filed his return of income on 4.12.2018 for the A.Y. under consideration admitting entire cash deposits as gross receipts of his business and accordingly offered business income to tax. The AO however did not accept business income offered by assessee but has treated entire cash deposits of assessee as unexplained income u/s 69 of the Act and brought it to tax.

2.2. Aggrieved, assessee preferred an appeal before the CIT(A) who upheld the order of AO and the assessee is in second appeal before the Tribunal.

2.3. Ld.Counsel for the assessee submitted that the CIT(A) has passed order ex-parte the assessee, and that the assessee has furnished sufficient evidence to show that the cash deposits are not his funds and also that the parties to whom payments were made out of these funds, are all customers of M/s MPM Hotels Pvt. Ltd. He submitted that for the earlier years in assessee's own case, the issue is still pending before the CIT(A) and the appeal was kept in abeyance, as CIT(A) was awaiting the decision of the Courts and has expressed his opinion that the same will be decided after the decision has been rendered by Hon'ble Civil/Criminal Courts.

2.4. Ld.DR supported the orders of authorities below and submitted that the assessee himself has admitted and accepted this income as his income and therefore AO has rightly brought it to tax.

3. Having regard to rival contentions and material placed on record, I find that the CIT(A) has decided the appeal ex parte the assessee and since similar issue was pending before the CIT(A), Hyderabad for earlier A.Ys, I deem it fit

and proper to remand this issue also to the file of CIT(A) to take a decision on similar lines as in the earlier A.Ys.

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

Order pronounced in Open Court on 17/12/2020.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Dated: 17th December, 2020

- *gmv*

Copy of Order forwarded to:

1. Sh. Kiran Venkat Anand Sanaka, 156, 16-11-16, Sripuram Colony, Saidabad, Hyderabad 500 036.
2. ITO, Ward 9(1), Hyderabad.
3. ACIT, Range 9, Hyderabad
4. CIT(A)-7, Hyderabad.
5. Pr.CIT -7, Hyderabad
- 6 D.R. ITAT Hyderabad
7. Guard File