

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

(Through Video Conference)

BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER

**ITA No. 189/Hyd./2020
Assessment Year: 2010-11**

Shri Jayant Reddy Marri (HUF) vs. ITO, Ward 9(4)
Hyderabad Hyderabad

[PAN: AAIHR1446M]

**ITA No. 190/Hyd./2020
Assessment Year: 2011-12**

Shri Jayant Reddy Marri vs. ITO, Ward 9(4)
Hyderabad Hyderabad

[PAN: ACAPM9268N]

(Appellant)

(Respondent)

For Assessee: Shri Murali Mohana Rao, AR
For Revenue: Sh. Aluru Vekata Rao, D.R.

Date of Hearing : 27/01/2021
Date of Pronouncement : 22/02/2021

ORDER

These assessee's appeals arise against the separate orders of the CIT(A)-7, Hyderabad dated 02.12.2019 passed in appeal no.284/2016-17 for AY 2010-11, and appeal no.159/16-17 dated 27.09.2019 for A.Y. 2011-12.

Heard Shri P.Murali Mohana Rao representing assesseees and Shri Aluru Venkata Rao, DR appearing for department. Case files perused.

2. The former assessee's first and foremost grievance canvassed in ITA No. 189/Hyd/2020 challenges the correctness of both the lower authorities action adding an amount of Rs. 10,64,500/- as unexplained cash deposits. Learned counsel is fair enough in not disputing the impugned addition in principle. His only case is that both lower authorities have failed in granting telescoping benefit of capital gains income received in the preceding AY 2009-10 on account of sale of its capital asset/ land. This clinching aspect has gone unrebutted from department's side. I therefore deem it appropriate to restore this issue to consider assessee's telescoping plea as per law in above terms. This issue is allowed for statistical purposes.

3. Learned counsel next took me to assessee's substantive grievance challenging CIT(A) disallowing 12% of expenditure claim in computation of capital gain(s). It is not in dispute that the CIT(A) has accepted 88% of the remaining expenditure in principle. The fact also remains that the assessee has failed to file all the necessary details qua the impugned claim. I deem it appropriate in this factual background that 8% lumpsum disallowance instead of 12% in issue would be just and proper with a rider the same shall not be taken as precedent. Necessary computation shall follow as per law.

The former assessee's appeal ITA 189/H/20 for AY 2010-11 is partly allowed in foregoing terms.

4. Latter assessee's appeal's solitary grievance raised seeks to reverse both the lower authorities action treating creditors in bank account of Rs.14,34,500/- as unexplained. Mr. Rao's only plea during the course of hearing is that the impugned addition involves an amount of Rs.5 lakhs derived from transfer of assessee's capital asset which has not been considered for telescoping benefit. I therefore restore this issue back to the Assessing Officer to consider assessee's telescoping plea as per law in

foregoing terms. The remaining addition of Rs.7,43,517/- already made in CIT(A)'s order as per observations in para 7.3 stands confirmed.

5. No other argument has been raised before me.

These assessee's appeals are partly allowed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in Open Court on 22/02/2021.

Sd/-
(S.S. GODARA)
JUDICIAL MEMBER

Dated: 22nd February, 2021

- *gmv*

Copy of Order forwarded to:

1. Sri Jayant Reddy Marri (HUF) (ii) Sri Jayant Reddy Marri : C/o P. Murali & Co., Chartered Accountants, 6-3-655/2/3, Somajiguda, Hyderabad 500 082, Telangana.
2. ITO, Ward 9(4) , Hyderabad
3. ACIT, Range 9, Hyderabad
4. CIT(A)-7, Hyderabad.
5. Pr.CIT -7, Hyderabad
- 6 D.R. ITAT Hyderabad
7. Guard File