

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH "A", HYDERABAD
(Through Virtual Hearing)

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER
AND
SHRI S.S. GODARA, JUDICIAL MEMBER

ITA No. 842/Hyd/2018			
A.Y. 2008-09			
Sunil Kumar D. Shah, Hyderabad. PAN: AWHPS 5100 N	Vs.	DCIT, Central Circle-2, Hyderabad.	
(Appellant)		(Respondent)	
Assessee by:	Shri B. Satyanarayana Murthy		
Revenue by:	Shri Sunil Kumar Pandey, DR		

Date of hearing:	08/02/2021
Date of pronouncement:	22/02/2021

ORDER

PER A. MOHAN ALANKAMONY, AM:

This appeal is filed by the assessee against the order of the Ld. CIT(A)-6, Hyderabad in appeal No.0198/2016-17/B2/CIT(A)-6, dated 05/01/2018 passed U/s. 143(3) r.w.s 250(6) of the for the A.Y.: 2008-09.

2. The assessee has raised five grounds in its appeal however, the cruxes of the issues are:-

- (i) The Ld. CIT(A) has erred in sustaining the addition made by the Ld. A.O. amounting to Rs. 78,708/- by disallowing deduction claimed U/s.80C of the Act

towards the LIC Premiums paid to cover the life of the assessee and his family members.

- (ii) The Ld. CIT(A) has erred in sustaining the addition of Rs. 6,02,800/- made by the Ld.AO towards unexplained money U/s.69A of the Act.

3. Brief facts of the case are that the assessee is a resident individual earning income from house property. A search and seizure operation U/s. 132 of the Act was carried out in the residential premises of the assessee on 9/10/2017. Thereafter, the assessment was completed U/s. 143(3) of the Act on 31/12/2008 wherein the Ld. AO made addition of Rs.78,708/- by disallowing deduction Under Chapter VIA with respect to the LIC insurance premium paid to cover the life of the assessee and his children. The Ld. AO also made another addition U/s. 69A of the Act for Rs. 6,02,800/- with respect to cash found and seized at the time of search. On appeal, the Ld. CIT (A) confirmed the order of the Ld. AO aggrieved by which the assessee is now on appeal before the Tribunal.

4. Ground No.1: Disallowance of LIC Premium paid for Rs. 78,708/-.

5. During the course of assessment proceedings, the Ld. AO denied the claim of deduction Under Chapter VIA of the Act being

the LIC Premium paid to cover the life of the assessee as well as his children because the assessee had failed to furnish the particulars of those expenditure. On appeal, the Ld. CIT (A) confirmed the order of the Ld. AO because on verification it was observed that the payment was made from the joint account of the assessee and his spouse.

6. At the outset, we do not find any merit in the orders of the Ld. Revenue Authorities in this issue. Section 80C(2) and (4) of the Act specifies that the sum paid to effect or to keep in force an insurance on the life for the individual, spouse and children shall be entitled for deduction. In the case of the assessee, it is established that the assessee has paid the LIC premiums from the joint bank account maintained with his spouse. Therefore, either the assessee or his spouse is entitled to claim deduction U/s. 80C of the Act. Since in the case of the assessee, the assessee has claimed the deduction and not his spouse, the assessee is entitled to claim the deduction under the Act. Therefore, we hereby direct the Ld. AO to grant deduction U/s. 80C of the Act with respect to the payment made towards LIC Premiums of Rs. 78,708/-. Accordingly, this issue is allowed in favour of the assessee.

7. **Ground No.2:** Addition of Rs. 6,02,800/- U/s. 69A of the Act.

8. During the course of search operations conduction in the residential premises of the assessee an amount of Rs. 6,02,800/- was found. The Ld. AO made addition of the same invoking the provisions of section 69A of the Act stating that the assessee has not furnished any satisfactory explanation. Before the Ld. CIT (A) the assessee had explained from the materials on record that the assessee has sold agricultural land and deposited with the bank account and from the same an aggregate amount of Rs. 26,16,000/- was withdrawn from the bank during the period 12/5/2006 to 1/9/2007. It was further submitted that the amount of Rs. 6,02,800/- found at the time of the search was the residual balance out of the amount withdrawn from the bank of Rs. 26,16,000/-. However, the Ld. CIT (A) confirmed the addition by observing as follows:

“11.2. During the course of the appellate proceedings, it is explained by the AR that the cash found during the course of search was accounted money pertaining to accumulation of monies drawn from the bank, sale proceeds of agricultural lands etc. Also, he filed statement of cash withdrawals made from the bank from 12.5.2006 to 01.09.2007 totalling to Rs. 26,16,000/-. Accordingly, the AR of the assessee explained that the cash found during the course of search at the residential premises of the assessee was out of the withdrawals made from the bank. Further, the assessee is under the impression that whatever amount reflected in the bank account is accounted money.

11.3. *I have considered the submissions of the assessee and verified the documentary evidence filed by the assessee during the course of assessment proceedings. The assessee's main contention is that the cash found in the residential premises of the assessee was out of accumulated monies including sale of agricultural lands and he tried to link that such monies were initially deposited in the bank account and, subsequently, withdrawn from the bank account on various dates, but before the date of search. At this juncture, it is pertinent to note that the bank account, which was produced as the primary evidence in support of his explanation that cash found in the premises was accounted, is nothing but the same bank account with Bank of India held jointly in the names of Ms. Sunanda D Shah and the assessee.*

11.4. *As explained, while adjudicating the issue of deduction under Chapter VIA of the Act at para-No.8.3 of this order, the entries reflected in such bank account, both debits and credits, cannot be considered as the entries pertaining to the assessee in as much as the basic presumption is that all the transactions are related to the first holder of the joint account. In this case, the first name in the joint account is Ms. Sunanda D Shah to the effect that the money deposited, and the withdrawals made thereof are wholly and exclusively related to the assessee and not related to the first holder of the joint account i.e., Ms Sunanda D Shah, it is not possible to believe the assessee's argument that cash found on the date of search was sourced out of the bank withdrawals. In view of this, I do not find merit in the assessee's contention on this issue. Hence, the grounds of appeals filed by the assessee on this issue are dismissed."*

9. At the outset, we do not find any merit in the orders of the Ld. Revenue Authorities on this issue also because, assessee has withdrawn an aggregate amount of Rs. 26,16,000/- from the bank during the immediate past period and the source of the amount deposited in the bank is not in doubt. Therefore, it would be appropriate to presume that the amount found at the time of search of Rs. 6,02,800/- is from the amount withdrawn from the bank as larger amount is withdrawn from the bank in

the recent past, unless it is otherwise established that the entire amount of Rs. 26,16,000/- is utilised for some other purpose. In the case of the assessee there is no such finding. Therefore, we hereby set-aside the orders of the Id. Revenue Authorities on the issue and direct the Ld.AO to delete the addition made for Rs. 6,02,800/- invoking the provisions of section 69A of the Act.

10. In the result, the appeal of the assessee is allowed.

Pronounced in the open Court on the 22nd of February, 2021.

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

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 22nd February, 2021.

OKK

Copy to:-

- 1) Sunil Kumar D. Shah C/o. M/s. Venugopal & Chenoy, Chartered Accountants, D.No.4-1-889/16/2, Tilak Road, Hyderabad.
- 2) The Income Tax Officer, Ward-14(2), IT Towers, Hyderabad.
- 3) The Commissioner of Income Tax (Appeals)-6. Hyderabad.
- 4) The Principal Commissioner of Income Tax-6, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File