

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad SMC Bench, Hyderabad
(Through Video Conferencing)
Before Smt. P. Madhavi Devi, Judicial Member

ITA No1422./Hyd/2019		
Assessment Year:2015-16		
Shri Seetharama Rao Ramadugu, Secunderabad PAN:ADNPR6429C (Appellant)	Vs.	Income Tax Officer Ward 15(4) Hyderabad (Respondent)
Assessee by:	Sri A.V. Vishal	
Revenue by:	Sri K.N. Suresh Babu, DR	
Date of hearing:	18/02/2021	
Date of pronouncement:	10/05/2021	

ORDER

This is assessee's appeal for the A.Y 2015-16 against the order of the CIT (A)-7, Hyderabad, dated 12.7.2019.

2. Brief facts of the case are that the assessee filed his return of income for the A.Y 2015-16 on 20.6.2016 admitting a total income of Rs.3,04,150/-. Subsequently, the case was selected for scrutiny under CASS and notice u/s 143(2) was issued to the assessee. However, none appeared on behalf of the assessee. Therefore, the Office Inspector was deputed and a notice u/s 142(1) was served by affixture. However, there was no response from the assessee and therefore, the AO completed the assessment by treating the cash deposits of Rs.94.85 lakhs in his Bank A/c held with AXIS Bank, Trimualghery, Secunderabad as income of the assessee from unexplained sources and brought it to tax.

3. Aggrieved, the assessee preferred an appeal before the CIT (A) stating that notices were not served on the assessee and that the notices were served on the property address which was sold away and further that while filing the return of income, the Tax Professional had given his mobile and office phone numbers, due to which the Department was communicating with the Tax Professional, who in turn did not intimate the assessee nor did he share assessee's mobile number with the Department. He, therefore, prayed that the learned CIT (A) give him an opportunity to represent the matter.

4. The learned CIT (A) entertained the said plea and called for a remand report from the AO. The AO submitted the remand report on 11.2.2019 which was furnished to the assessee and the assessee also submitted his objections to the same. Thereafter, the CIT (A) observed that the AO has verified various amounts deposited into the Bank A/c and came to the conclusion that an amount of Rs.35,15,200/- remained unexplained. In reply to the remand report, the assessee submitted that the AO did not consider the amount of Rs.40.00 lakhs received by the assessee from the vendee (in addition to the sale consideration) for carrying out the repair works, the material suppliers etc. The CIT (A), held that this contention of the assessee is not acceptable, since no evidence was furnished by the assessee in support of the claim of receipt of Rs.40.00lakhs. He further observed that the claim of expenditure of Rs.15,11,500/- is also not supported by any evidence. Therefore, he restricted the addition to Rs.35,15,200/- as against the addition of Rs.94,85,380/- made by the Assessing Officer.

5. Aggrieved by the confirmation of part of the addition i.e., to the extent of Rs.35,15,200/-, the assessee is in second

appeal before the Tribunal by raising the following grounds of appeal:

“1. The learned CIT (A) erred in facts and circumstances of the case in confirming addition to the tune of Rs.15,11,500/- as unexplained.

2. The learned CIT (A) ought to have appreciated and considered the fact that the amount received and deposited to the tune of Rs.40,00,000 is part of gross receipts of the assessee business income being a civil contractor.

3. The learned CIT (A) omitted to apply section 44AD (presumptive income) as assessee being a civil contractor and has been regularly filing its return of income under said section in respect of receipt of Rs.40,00,000/- also.

4. The lower authorities ought to have estimated gross receipts of Rs.40,00,000/- @ 8% being a presumptive provision u/s 44AD r.w.s. 44AA where no books are required to be maintained.

5. The appellant craves to add, alter, amend, substitute, omit and or modify all or any one of the grounds”.

6. The learned Counsel for the assessee submitted that the assessee has offered his income u/s 44AD of the Act and therefore, even the unexplained deposits should have been treated as his business turnover and profit thereon should have been estimated at 8%, instead of bringing the entire unexplained deposits to tax.

7. The learned DR, on the other hand, submitted that there is no evidence that the assessee has been carrying on work of civil contract and therefore, the unexplained cash deposits to the extent of Rs.35,15,200/-were rightly brought to tax as “income from other sources”.

8. Having regard to the rival contentions and the material on record, I find that the assessee has claimed that in addition to the sale consideration received for sale of the property, the

assessee has received a further sum of Rs.40.00 lakhs for renovation of the property as he himself was a Civil Contractor and the vendee had requested him to do the needful. The assessee claims that the said sum of Rs.40.00 lakhs should be treated as source for the unexplained deposits to the extent of Rs.35,15,200/-. Alternatively, without prejudice to the submission, the assessee further submits that this sum of Rs.40.00 lakhs should be considered as part of gross turnover of the assessee and the profit thereon should be estimated @ 8% as offered by the assessee u/s 44AD of the Act. However, no evidence has been filed before any of the Officers in support of the claim of receipt of Rs.40.00 lakhs or that the assessee has renovated the property on behalf of the vendee. No evidence of any kind, much less the procurement of material for doing such work, has been produced before any of the authorities, much less before the Tribunal. Therefore, I see no reason to accept the contentions of the assessee and to interfere with the order of the CIT (A) on this issue. In view of the same, the assessee's appeal is dismissed.

9. In the result, assessee's appeal is dismissed.

Order pronounced in the Open Court on 10th May, 2021.

Sd/-

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

Hyderabad, dated 10th May, 2021.

Vinodan/sps

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- 3 CIT (A)-7 Hyderabad
- 4 Pr. CIT – 7 Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

By Order