

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES : BENCH "B" HYDERABAD**

(Through Video Conference)

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER
AND
SHRI L.P. SAHU, ACCOUNTANT MEMBER**

**I.T.A. No. 1136/Hyd./2018
Assessment Year : 2013-14**

Shri Girish Rathi.
Hyderabad

vs.

ITO, Ward 10(2)
Hyderabad

[PAN: AEJPR8814C]

(Appellant)

(Respondent)

For Assessee: Sri Sanjay Anam Siddique, AR
For Revenue: Shri Rohit Mujumdar, D.R.

Date of Hearing : 22/02/2021
Date of Pronouncement : 04/05/2021

ORDER

PER S.S. GODARA, J.M.

This assessee's appeal for AY 2013-14 is directed against the CIT(A)-6, Hyderabad's order dated 05.03.2018 in case no. 0022/2016-17 u/s 144 of the Income Tax Act, 1961 (in short 'the Act').

Heard both parties. Case file perused.

2. The assessee's twin substantive grounds challenge correctness of both the lower authorities action inter alia adding unexplained cash credits/deposits of Rs.1,42,33,000/- in his personal account followed by agricultural income of Rs2,74,200/-; respectively. Learned counsel is fair enough in not pressing for assessee's latter substantive ground hereinabove keeping in mind the smallness of amount involved. The same is therefore rejected in above terms.

3. Coming to the sole surviving issue of correctness of unexplained cash credit/deposits addition of Rs.1,42,33,000/- made in both the lower proceedings on account of this taxpayer's alleged failure in proving source thereof; Mr.Siddique has filed a copy of judgement dated 23rd December, 2019 from the court of XII Additional Chief Metropolitan Magistrate Hyderabad in C.C. no.262/2015 against this assessee wherein the complainant has lodged a complaint against him allegedly stating that her amount of Rs1.5 crores had been wrongly received on the pretext of making investments. The said judgement has acquitted the assessee of charges framed u/s 406 , 409 and 420 IPC.

3.1. Learned counsel's case in light of foregoing judgement is that the above criminal proceedings sufficiently discharge the assessee's onus of proving the source of the sum in question from the said complainant only. The Revenue's strong stand in support of the impugned addition is that the above judgement has come much after the CIT(A)'s order dated 5th March, 2018.

4. We have given our thoughtful consideration to the foregoing rival contentions against and in support of the impugned addition. We are of the opinion that the instant issue requires a fresh adjudication at the Assessing Officer's end keeping in mind the abovestated judgement in criminal court. We thus restore this sole surviving issue back to the assessing authority. The assessee or his authorised representative shall appear before the Assessing officer on or before 31st August, 2021 with all the relevant evidence; at his own risk and responsibility to be followed by three effective opportunities of hearing.

This assessee's appeal is accepted for statistical purposes in above terms. Pronounced in Open Court on 04th May, 2021.

Sd/-
(L.P. SAHU)
ACCOUNTANT MEMBER

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

Dated: the 04th May, 2021.

* gmv

Copy of the Order forwarded to:

1. Sri Girish Rathi, Plot noA-23, Khar Gandhi house, Vikrampuri colony, Secunderabad, Telangana.
2. ITO, Ward 10(2), Hyderabad.
3. ACIT, Range 10, Hyderabad.
4. CIT(A)-6, Hyderabad.
5. Pr.CIT-6, Hyderabad.
6. DR, ITAT, Hyderabad.
7. Guard File.