

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "A": HYDERABAD  
(THROUGH VIRTUAL CONFERENCE)**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER  
and  
LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 582/H/2017 Assessment Year: 2013-14		
Asst. Commissioner of Income-tax, Circle - 15(1), Hyderabad.	Vs.	V.V. Rajam, Hyderabad.  PAN - AANPV 0524F
(Appellant)		(Respondent)
Assessee by:		Shri YVST Sai & Shri Rajendra Kumar
Revenue by:		Shri S. Rama Rao
Date of hearing:		05/04/2021
Date of pronouncement:		28/05/2021

**ORDER**

**PER L.P. SAHU, AM:**

This appeal filed by the assessee for AY 2013-14 is directed against CIT(A) - 7, Hyderabad's order, dated 15/09/2016 involving proceedings u/s 143(3) RWS 153A of the Income Tax Act, 1961 ; in short "the Act" on the following grounds of appeal:

- 1. The learned CIT(A) erred in law and on facts of the case.*

*2. The learned CIT(A) erred in deleting the addition of Rs. 1,87,32,500/- made by the Assessing Officer.*

*3. In the facts and circumstances of the case, the Ld. CIT(A) erred in allowing the appeal when the assessee failed to explain how he received and utilized the sale consideration of a land for which he is not the title holder.*

*4. The Ld. CIT(A) erred in allowing the appeal without considering the fact that the land was not agricultural land at the time of sale and no agricultural activities were carried*

*out at the time of sale.*

*5. Any other ground(s) that may be urged at the time of hearing.*

2. Briefly the facts of the case are that the assessee filed his return of income for the AY 2013-14 declaring a total income of Rs. 12,14,090/- on 28/01/2014 including income from salary income from house property and income from other sources. Subsequently, the case was selected for scrutiny and statutory notices were issued to the assessee on 10/09/2014, against which, the assessee submitted the information as called for.

2.1 Based on the specific information received by the AO that Sri Bukka Kanakaiah of Siddipet was carrying cash of Rs. Rs.1,20,00,000/- to be delivered at Malakpet, Hyderabad. A search was conducted on 05.06.2012. The

cash of Rs.1,20,00,000/- found in his possession was seized. As he deposed during his statement that an amount of Rs.1,00,50,116/- was already delivered in cash to Shri V.V. Rajam, of Malakpet, Hyderabad, to whom he intended to deliver the seized cash of Rs.1.20 crores for the purpose of purchase of land at Siddipet, the assessee was searched u/s.132 on 06.06.2012. The Assessing Officer completed the assessment u/s.143(3) r.w.s. 153A of the Act assessing the unaccounted cash of Rs. 1,87,32,500/- and determined the total income at Rs.2,00,26,590/-.

3. Aggrieved by the order of the AO, the assessee preferred an appeal before the CIT(A).

4. The CIT(A) after considering the submissions of the assessee, which were extracted by the CIT(A) in his order at pages 8 to 13, deleted the addition made by the AO.

5. Aggrieved by the order of CIT(A), the revenue is in appeal before the ITAT.

6. Before us, the Id. DR besides relying on the order of AO submitted that the assessee, GPA holder of the property could not establish the source of investment made by him and the transaction of sale agreement executed on 23<sup>rd</sup> July, 2012 was not canceled and he has received payment as per the sale deed. He submitted that the agreement was made

on 13/03/2012 between K. Vijayasri and Bukka Kanakaiah and others and they have developed the land by way of plotting. He submitted that as per the revenue record, the land was dry land and it is the duty of the assessee to get it changed on revenue documents, if the assessee is utilizing the land other than as mentioned in the revenue record. He contended that the CIT(A) has wrongly deleted the addition made by the AO without considering the findings and documents found during the course of search and seizure operation u/s 153A of the Act. He submitted that the CIT(A) has coterminous powers and could have examined the issue after calling Bukka Kanakaiah and others and subsequent agreement made by the appellant.

7. On the other hand, the Id. Authorised Representative (AR) besides relying on the order of the CIT(A), reiterated the submissions as made before the revenue authorities. He submitted that the land was an agricultural land. In support of assessee's case, he filed a paper book containing pages to 1 to 172, the details of which are as under:

Sl. No.	Particulars	Filed before	Page No.
1.	Sale deed executed between S. Shatraiah and V. Laxmi Devi on 13th April 2005 Vide Doc No. 1842/2005.	CIT(A) & AO	01-08
2.	Sale deed executed on 02nd May 2007 between V. Laxmi Devi and	CIT(A) & AO	09-18

	M. Venkateshwar Rao vide Doc Nc. 5938/2007.		
3.	Sale deed executed on 02 <sup>nd</sup> May 2007 between Bomma Pavan kumar and Kambalapally Krupakar Reddy vide Doc No. 5944/2007.	CIT(A) & AO	19-30
4.	Sale deed executed on 7 <sup>th</sup> November 2005 between P. Prabhakar and Bomma Pavan Kumar vide Doc No. 5863/2005.	CIT(A) & AO	31-39
5.	Letter submitted to DCIT	CIT(A) & AO	40-41
6.	Proceedings of the Tahsildar Ibrahimpatnam mandal, R.R Dist dated	CIT(A) & AO	44-44
7.	Pattadar passbook of land situated at mangalpally village.	CIT(A) & AO	45-56
8.	Return of Income and Computation of Total Income for the A Y 2008-09.	CIT(A) & AO	57-59
9.	Sale Deed vide Doc No. 2009/2001 executed on 16.05.2001 between Sala Sailu and K. Vijayasri along with English Translations.	CIT(A) & AO	60-70
10.	Sale Agreement for Agriculture Land executed on 13 <sup>th</sup> March 2012 between K. Vijayasri and Sukkjl Kanakaiah.	CIT(A) & AO	71-76
11.	Cancellation agreement executed on 25 <sup>th</sup> June 2012 between Smt K. Vijayasri and V.V. Rajam.	CIT(A) & AO	77-79
12.	Sale Agreement executed on 23 <sup>rd</sup> July 2012 between K. Vijayasri and V.V. Rajam.	CIT(A) & AO	80-84
13.	General Power of Attorney Given by Smt. Vijayasri to V.V. Rajam	CIT(A) & AO	85-90

	along with proof of identity.		
14.	Sale Deed executed on 02 <sup>nd</sup> Aug 2012 vide Doc No. 6876/2012 between Vijayasree and B.Mallareddy along with English Translated documents.	CIT(A) & AO	91- 106
15.	Sale deed executed on 2 <sup>nd</sup> August, 2012 vide Doc No. 6877/2012 between Vijayasree and B. Mallareddy along with English Translated documents.	CIT(A) & AO	107- 123
16.	Sale deed executed on 2 <sup>nd</sup> August, 2012 vide Doc No. 6875/2012 between Vijayasree and B. Mallareddy along with English Translated documents.	CIT(A) & AO	108- 143
17.	Sale deed executed on 2 <sup>nd</sup> August, 2012 vide Doc No. 6874/2012 between Vijayasree and B. Mallareddy along with English Translated documents.	CIT(A) & AO	144- 161
18.	Written Submission filed before the Commissioner of Income-tax (Appeals) - 7.	CIT(A) & AO	162- 172

8. We have considered the rival submissions and perused the material on record as well as gone through the orders of revenue authorities. We observe that the sale agreement was made by the owners of the land Smt. Kasubaga Vijaya Sri, Vendor in favour of Bukka Kanakaiah and Amirisetty Venkatesham, Vendees, being Survey no. 242, 244/A, 363/3A and 363/4, total an extent of Ac. 4.09 guntas for a sale consideration of Rs. 62,00,116/- per acre

and advance money was also received. Lateron, the said sale agreement was not materialized and the agreement was cancelled on 25/06/2012 by the Vendees and vendor/GPA holder Shri VV Rajam. As per the cancellation agreement, the entire amount of Rs. 1,12,50,000/- received from the vendees was returned to the vendors. Again, on 23<sup>rd</sup> July, 2012, sale agreement was made by the owners Smt. Kasubaga Vijaya Sri (represented by her GPA Sri VV Rajam), Vendor in favour of Bussa Malla Reddy, Didigam Satyanarayana, Koda Ashok and Chirlencha Satyaranara at a sale price of Rs. 62,00,116/ per acre and advance was received for an amount of Rs. 1,12,50,000/-. Further, the GPA holder, i.e. assessee has entered into an agreement for sale of the aforesaid property on 02/08/2012 with Bussa Mallareddy, P. Anil & Bada Ashok for a consideration of Rs. 12,67,500/- for the entire aforesaid property as tabulated (infra) in para 11 of the assessment order.

8.1 On going through the documents submitted by the assessee before us, the assessee had received payment as per the sale deed dated 23<sup>rd</sup> July, 2012 has not been cancelled and again the said property was sold on 02/08/2012 to the above three persons. The statements were recorded during the course of search and seizure operation of the assessee . The relevant part of the statement recorded during the course of search and seizure operation is as under:

*"7. Give the details of land transaction entered.*

*Ans: One Mr. Bukka Kanakaiah and A. Venkatesham came to me personally on 03.03.2012 so as to purchase the land situated at Ponnala Village belonging to my daughter Smt. K. Vijaya Sri, basing on the information given by me to local agents.*

*After due negotiations they came forward to purchase the land 4 acres and 9 guntas @ Rs. 62,00,116/- per acre (total Rs.2.48 Crs.). And as such they paid an advance of Rs.5,01,116/- and subsequently entered into agreement on 13.03.2012 by paying Rs.45,00,000/- as token of advance and committed to pay the balance amount by 06.06.2012. Meanwhile the balance amount they paid as Rs. 15,50,000/- on 19.04.2012 and Rs. 35,00,000/- on 19.05.2012. Thus totally they paid Rs. 1,00,51,116/-.*

*9. Whether the agreement with Sri B. Kanakaiah and Sri A. Venkatesam was materialized?*

*Ans: The agreement was not materialized. It was cancelled on 25-6-2012 due to non-payment of the balance sale consideration in view of the search and seizure by Income Tax Authorities on 05-6-2012 against B. Kanakaiah. The advance amount of Rs.1,00,51,116/- was also paid back to Sri B.Kanakaiah and A. Venkatesham in cash.*

*11. Whether the land of 4 acres 9 guntas at Ponnala village was sold? If sold give the details of purchasers.*

*Ans: Yes. The land was sold to following persons:*

<i>Sl.No.</i>	<i>Name</i>	<i>Document No.</i>	<i>Area</i>	<i>Sale consideration (Rs.)</i>
<i>1</i>	<i>Bada Ashok</i>	<i>6474/2012 dt. 02/08/2012</i>	<i>1 ac. 9 gts.</i>	<i>3,67,500</i>
<i>2</i>	<i>P. Anil</i>	<i>6875/2012,</i>	<i>2 Ac</i>	<i>6,00,000</i>

		<i>dt. 02/08/2012</i>		
3	<i>Bussa Malla Reddy</i>	<i>6876/2012, dt. 02/08/2012</i>	<i>0 ac 9 gts.</i>	<i>67,500</i>
4	<i>Bussa Malla Reddy</i>	<i>6877/2012, dt. 02/08/2012</i>	<i>31 9 gts.</i>	<i>2,32,500</i>

12. How come the property which was agreed to sell for at Rs.2.48 crores was sold at a meagre value Rs. 12,67,500/-?

*Ans: The rate mentioned above is in accordance with the registration document which was ordered by the Dy. Inspector General, registration and stamps, Nizamabad, though I received the amount of Rs. .2 Crores collectively from the above 3 persons. The sale deeds were executed by me under protest that I insisted the registration to be done on actual value of the property but it was done on support of the above mentioned order of the DIG, R&S, Nizamabad (copy enclosed).*

13. When and where was the amount of Rs.2 Crs received?

*Ans: I do not remember the actual date of payment but I received the money prior to the date of registration at Hyderabad and Siddipet. I do not remember how much amount is received at Hyderabad and how much amount is received at Siddipet.*

14. Was the money of Rs. 2 Crs received in cash? Can you give the breakup of RS.2 crores received?

*Ans: Yes I received the money in cash. Since the amount was paid by them collectively, I am not in a position to give the break up.*

15. How the amount of 2 crores received by you, has been utilized?

*Ans: I invested RS.2 crores in purchase of the land property and house property. I paid Rs.1.20 crores towards land purchase 2.00 acres and Rs.80 lakhs for the purchase of house on the name of myself & my wife.*

8.2 On perusal of the statement, AO has observed that the assessee has purchased a land of 2 acres in survey No. 356/3E1/1 situated at Pragnyapur village, Gajwel Mandal, Medak District in his name for a consideration of Rs. 1.2 crore as well as purchased a house in Hyderabad in his wife's name for a consideration of 80,00,000/-. This transaction itself has accepted by the assessee during the course of search proceedings at question & answer No. 15. Therefore, we are of the view that the AO has rightly made the addition for unaccounted cash. The assessee has submitted before the CIT(A) wrong facts that in the particular land there was a well and bore-well, but, on perusal of the sale deed executed on 02/08/2012, nowhere it has been mentioned under the 'Declaration' that there is a well or bore-well, which is clear from the page No. 69 of the translated sale deed at pages 102, 119 and 138. When the property was purchased in 2001 was a dry agricultural land, but, subsequently, when sale was materialized on 02/08/2012, nowhere it is mentioned in the translated document that the land was agricultural land. Before the CIT(A) at para (c) the assessee has submitted agricultural operation is carrying on and the source of irrigation for the

agricultural operations is the open well and also a borewell situated in the land. We find the pattadar pass book at page No. 142 and an attachment at page 143 and no crop grown is mentioned there. Therefore, the argument of the assessee that the said land is an agricultural land cannot be accepted. Earlier the sale agreement was made on two times i.e. 13/03/2012 and 23/07/2012 for a consideration of Rs. 62,00,116/- per acre and the same property has been sold on 02/08/2012 at Rs. 12,67,500/-, which is clearly proved that something has been concealed and during search the assessee clearly stated the actual facts which is clear from the statements recorded during the search and seizure. The statements are also supported that the assessee has made investment of Rs. 2 crore as per question & answer No. 15. In view of the above observations, relying on the judgements of Hon'ble Supreme Court in the case of Sumati Dayal Vs. CIT, 1995 AIR 2019 and CIT Vs. Durga Prasad More, 82 ITR 540, we set aside the order of the CIT(A) and restore the order of AO in making the addition of Rs. 1,87,32,500/- on account of unaccounted cash towards sale of land. Accordingly, the grounds raised by the revenue on this issue are allowed.

9. In the result, appeal of the revenue is allowed.

Pronounced in the open court on 28<sup>th</sup> May, 2021.

**Sd/-**  
**(P. MADHAVI DEVI)**  
**JUDICIAL MEMBER**

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

Hyderabad, Dated: 28<sup>th</sup> May, 2021.

*kv*

*copy to :*

1	<i>ACIT, Circle – 15(1), 5<sup>th</sup> floor, D-Block, IT Towers, AC Guards, Hyderabad.</i>
2	<i>Sri V.V. Rajam, H.No. 16-11-20/65, Saleemnagar Colony, Malakpet, Hyderabad.</i>
3	<i>CIT(A) – 7, Hyderabad</i>
4	<i>Pr. CIT - 7, Hyderabad</i>
5	<i>ITAT, DR, Hyderabad</i>
6	<i>Guard File.</i>