

**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. 761/Hyd./2017
Assessment Year : 2012-13**

Shri Bytinti Srithimmareddy
Gadwal

vs. ITO, Ward -1
Mahabubnagar

[PAN: AKKPB7216R]

(Appellant)

(Respondent)

For Assessee: Shri A.V. Raghuram for Mohd. Afzal, Adv.
For Revenue: Shri YVST Sai, CIT, D.R.

Date of Hearing : 07/04/2021
Date of Pronouncement : 11/06/2021

ORDER

PER S.S. GODARA, J.M.

This assessee's appeal for AY 2012-13 arises from CIT(A)-4 Hyderabad's order dated 24.11.2016 passed in case no. 137/2016-17 involving proceedings u/s 143(3) r.w.s 153A of the Income Tax Act, 1961 for short 'the Act'.

Heard both the parties. Case file perused.

At the outset, it is observed that there was a delay of 59 days in filing the appeal before the Tribunal, and the assessee filed affidavit explaining reasons for the delay. We condone the delay and proceed with the appeal as the delay is neither intentional nor willful.

2. It emerges at the outset that the assessee's sole substantive grievance raised in the instant appeal challenges correctness of both the lower authorities' action adding cash seized Rs.5,78,500/- as unexplained. There is hardly any dispute between the parties that the impugned cash had been seized on 23.2.2012 at Govardhanagiri check post, Veepangandla Mandal from the assessee. There is further no quarrel that this assessee has been assessed for having derived commission income in agricultural produce And also that he submitted his explanation attributing the impugned cash payments as payments regarding commission agency business pertaining to 10 farmers have already been confirmed from the latter's side. Suffice to say; both the lower authorities have held that the same do not inspire any confidence so as to be accepted. This leaves the assessee aggrieved.

3. We have heard the rival submissions against and in support of the impugned unexplained cash income addition of Rs.5,78,500/- seized from the assessee himself. The fact also remains that he is a duly registered commission agent in an agricultural produce market committee who also brought confirmations of the agriculture produce growers parties during the course of lower proceedings. All this sufficiently indicates that there is every chance of the said cash belonging to formers /growers only which also has not been completely reconciled in the lower proceedings Faced with this situation, we deem it appropriate that a net profit element addition of Rs. 1.25 lacs only out

of Rs. 5,75,500/- in issue would be just and proper with a rider that the same shall not be treated as a precedent. The assessee gets a relief of Rs. 4,53,500/- in other words. Necessary computation shall follow as per law.

This assessee's appeal is partly allowed in above terms.

Pronounced in Open Court on 11th June, 2021.

Sd/-

Sd/-

(L.P. SAHU)
ACCOUNTANT MEMBER

(S.S. GODARA)
JUDICIAL MEMBER

Dated: the 11th June, 2021.

* gmV

Copy of the Order forwarded to:

1. Sri Bytinti Srithimma Reddy C/o Mohd. Afzal, Advocate, 11-5-465, Sherson's Residency, Flat no. 402, Criminal Court road, Red Hills, Hyderabad 500 004.
2. ITO, Ward -1, Mahabubnagar.
3. ACIT, Range 5, Mahabubnagar.
4. CIT(A)-4, Hyderabad
5. Pr.CIT-4, Hyderabad
6. DR, ITAT, Hyderabad.
7. Guard File.