

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 289/H/2020 Assessment Year: 2017-18		
Kishan Kothwal, Siddipet PAN - EKSPK 6368F (Appellant)	Vs.	Income-tax Officer, Ward - 1, Siddipet. (Respondent)
Assessee by:		Shri K.C. Devdas
Revenue by:		Shri Rohit Mujumdar
Date of hearing:		16/06/2021
Date of pronouncement:		28/06/2021

**ORDER**

**PER L.P. SAHU, A.M.:**

This appeal filed by the assessee is directed against CIT(A) - 7, Hyderabad's order dated 27/01/2020 for AY 2017-18 involving proceedings u/s 144 of the Income Tax Act, 1961 ; in short "the Act" on the following substantive ground of appeal:

*"The order of the ld. CIT(A) -7, Hyderabad in confirming the addition of Rs. 10,00,000/- u/s 69A of the IT Act is unsustainable both in law and on facts."*

2. Briefly, the facts of the case are that the AO observed in the assessment order that as per the information received through AIMS (Actionable Information Monitoring System), the assessee had cash deposits aggregating to Rs. 13,16,304/- into bank account during the demonitisation period i.e. 09/11/2016 to 30/12/2016. He observed that in response to the notice issued u/s 142(1) on 10/03/2018 to the assessee, there was no compliance from the assessee to the said notice.

2.1 Thereafter, the assessee filed return of income for the AY 2017-18 belatedly on 25/07/2019 declaring total income of Rs. 3,84,290/- after claiming deduction under Chapter VIA at Rs. 84,007/-. Since the return filed is non est in law and invalid, the AO issued show cause notice on 22/08/2019, however, there was no response from the assessee to the said notice. As the sources for the cash deposit of Rs. 10,00,000/- and sources for the credit of Rs. 2,75,000/- aggregating to Rs. 22,75,000/- remained unexplained by the assessee, the AO treated the same as income u/s 69A of the Act.

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

4. The CIT(A) after considering the submissions of the assessee, confirmed the addition of Rs. 10,00,000/- by

observing that the assessee is a state government employee and as per the provisions of the state government conduct rules, state government employees are not permitted to make investment in speculative transaction. He further observed that the state government employees are duty bound to inform the head of office regarding investments and the assessee had not made any such declaration to the State Govt. This clearly explains that the assessee is making a false claim of chit fund investment. Referring to the rule 10(2) of the conduct rules of APCS (Conduct) Rules, 1964, the CIT(A) upheld the addition of Rs. 10,00,000/-, while directed the AO to delete the addition of Rs. 2,75,000/-.

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

6. Before us, the ld. AR of the assessee filed written submissions, which are as under:

*3.1 It is an undisputed fact emanating from the statement recorded under section 131 of the Act that the Appellant after meeting his monthly expenditure of Rs 18000 to Rs 19,000 has an average unspent cash every month of about Rs 6,000 to Rs 8,000 PM. This is as per the cash withdrawals made for the period July 2014 to January 2015. The CIT(A) has not considered the monthly cash withdrawals subsequent to January 2015 up to the date of cash deposit wherein the average cash withdrawal is about Rs 27,000 PM up to July 2015 & Rs 35,000 PM from August 2015 to March 2017. (Copy of the bank statements for the period 1.04.2014 to*

*31.03.2017 is enclosed. The bank statements were filed before the CIT(A)*

*2.2 Further, the CIT(A) has also not considered the income of his son which is about Rs ~,000 to Rs 5,000 PM which is also available for investing in chit fundi savings.[Q.No 24, Page 7 of the CIT(A)'S order]. If the both the savings are considered, the Appellant has adequate savings in cash to pay the monthly chit instalments.*

*3.3 Further, the monthly expenditure estimated at Rs 18,000 to Rs 19,000 by the CIT(A) is at the point of recording the statement under section 131 of the Act (i.e. on 30.12.2019) and does not relate to the period of investment. Thus, the same amount of expenditure cannot be related back to the year 2014 -2015 where the expenditure cost would be much less due to adjustment in cost inflation. If the monthly expenditure of Rs 18,500 is adjusted to the relevant year, the average unspent cash available for monthly saving would be about Rs 9,000 to Rs 12,000 PM, more particularly taking into account the social status of the appellant and income earned by his son which is flexible. Thus the statement of the Appellant was not quite unusual or tainted with some falsehood, for he is a man with little or no knowledge about any implication. In this backdrop, the claim made by him about his saving should not be doubted to make an addition.*

*3.4 It should merit the consideration of the Hon'ble Bench that the Appellant is not a person of no means. He is a state govt employee working for more than 25 years and his son is also earning income since 2012. Thus, to discard the submission of the Appellant regarding savings in chit funds is totally unjustified. Further, it is the not only saving done by the Appellant. He had also saved/ invested money prior to 2014 in chits or otherwise to meet any exigencies. Before the*

*AO, he had submitted that he is been saving money to meet the marriage expenses of his second daughter since 2007. Thus, the savings made from 2007 up to 2014 is also available for the Appellant to meet other financial contingencies like medical and educational expenses of his family members.*

*3.5 For better appreciation of the merits of the case, credence has to be given to the socioeconomic background of the Appellant and the way the lower social class operates in our country. In rural India and amongst lower social class people informal savings remain popular and one such popular form of saving is investment in unorganized chits run by friends or community people. It is a common practice in rural areas and amongst lower social group to invest in unorganized chits run within their community as it easy for them to realize the chit amount as and whenever required .If someone has an urgent need to pay any huge expenditure like school fees or medical bills, the chit fund group allocates the funds to them, since the bank loan times and comes with security and further this is [he easier way to get hold of money quickly and without accruing interest and without providing any security. It is a common knowledge that unorganised chits run on trust, ~ and it is not possible to obtain any confirmation from the persons running chit business. It provides security to persons at the time of need to draw money and meet expenditure in emergency situations.*

*3.6 It is a well- known fact that India's working poor and people in rural areas rely almost exclusively on cash and prior to introduction of digital economy by the Government. The lower middle-class people engage and believe in cash savings and conducting transactions in cash. While this is mostly on account of high illiteracy and nonawareness amongst the people, holding cash also gives them a sense of financial security and safety. This fact cannot be ignored or disregarded.*

*3.7 Regarding utilization of the cash deposit of Rs 10,00,000 subsequent to demonetization, the same is submitted before the CIT(A) in response to Q.No.7 to the statement recorded under section 131 of the Act [Q.No 7, Page 6 of the CIT(A)'s order]. The amount was transferred through RTGS to his wife, son, and son-in-law.*

*3.8 In the light of above facts and human probabilities governing the case such as the Appellant, it is respectfully submitted that the Hon'ble ITAT may be pleased to take judicial notice of facts prevalent in our society particularly in the lower strata. It may be appreciated that such people like your Appellant cannot maintain any account of his financial affairs with evidence to the hilt. The Appellant takes the opportunity to bring to the kind notice of Hon'ble ITAT as held in Fletcher Moulton L.J. in Hawkins v. Powells Tillery Steam Coal Co. Ltd. 1911 (1) KB 988 that "Proof does not mean proof to rigid mathematical demonstration, because that is impossible; it must mean such evidence as would induce a reasonable man to come to a particular conclusion."*

7. The Id. DR, on the other hand, relied on the orders of CIT(A).

8. We have considered the rival submissions and perused the material on record as well as gone through the orders of revenue authorities. The CIT(A) demonstrated in his order that the assessee does not have sufficient money to pay monthly chit installments by way of recording his statement u/s 131 of the Act and examining the bank statements, further observed that no documentary evidence was filed by the assessee to establish genuineness of the

chit fund claim. Further, the CIT(A) observed that being govt. employee, the assessee is not permitted to enter in chit fund. Even before us, the ld. AR of the assessee failed to establish that the amount of Rs. 10,00,000/- received from chit fund and the submissions in the written submissions are general and vogue which are not supported to the case of the assessee. The CIT(A) examined the bank statement of the assessee and after observing the monthly expenditure of the assessee and nature of transactions carried out by the assessee, he has rightly sustained the addition made by the AO. Therefore, we do not find any infirmity in the order of the CIT(A) in confirming the addition of Rs. 10,00,000/- made by the AO u/s 69A of the Act and, therefore, upholding the order of the CIT(A), we dismiss the ground raised by the assessee on this issue.

9. In the result, appeal of the assessee is dismissed.  
Pronounced in the open court on 28<sup>th</sup> June, 2021.

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

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

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

*kv*

*Copy to :*

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<i>3</i>	<i>CIT(A) - 7, Hyderabad.</i>
<i>4</i>	<i>Pr. CIT - 7, Hyderabad</i>
<i>5</i>	<i>ITAT, DR, Hyderabad.</i>
<i>6</i>	<i>Guard File.</i>