

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH "A", HYDERABAD
(Through Virtual Hearing)

BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

ITA No. 179/Hyd/2019		
A.Y. 2015-16		
Dileef Varanasi, Hyderabad. PAN: APLPV 5309 R (Appellant)	Vs.	Income Tax Officer, Ward-15(3), Hyderabad. (Respondent)
Assessee by:	Shri T. Chaitanya Kumar	
Revenue by:	Shri Rajendra Kumar, DR	
Date of hearing:	08/04/2021	
Date of pronouncement:	28/06/2021	

ORDER

PER A. MOHAN ALANKAMONY, A.M.:

This appeal is filed by the assessee against the order of the Ld. CIT(A)-7, Hyderabad in appeal No. 0168/CIT(A)-7/2017-18, dated 13/12/2018 passed U/s. 143(3) r.w.s 250(6) of the Act for the A.Y. 2015-16.

2. The assessee has raised seven grounds and one additional ground in his appeal however, the crux of the issue is as follows:

“The Ld. CIT (A) has erred in enhancing the addition made by the Ld. AO with respect to the cash credited in the bank account of the assessee, after sustaining the addition made by the Ld. AO, though the addition made by the Ld. AO itself is erroneous because the assessee was only engaged in the business of arranging funds to his clients and earning meagre commission on his services rendered.”

3. The brief facts of the case are that the assessee is an individual deriving income as financial intermediary filed his return of income for the AY 2015-16 on 9/3/2016 admitting total income of Rs. 7,00,200/- . Subsequently, the case of the assessee was selected for scrutiny under CASS because there were cash deposits in his savings account more than his turnover.

4. During the course of scrutiny assessment proceedings, the Ld. AO observed that the assessee had made cash deposit of Rs. 1,44,09,200/- in his bank account. After considering the withdrawals and redeposits the net cash credit stood at Rs. 94,04,800/-. On query, the assessee replied vide his letter dated 21/5/2017 stating that the credits in his bank account were part of his turnover. However, the Ld. AO rejected the submission of the assessee because the assessee could not reconcile the turnover with the cash deposited in his bank account. Therefore

the Ld. AO treated the net cash deposit in assessee's bank account of Rs. 94,04,800/- as his income and made addition.

5. On appeal, the Ld. CIT (A) sustained the order of the ld. AO by agreeing with his view. Further, with respect to the turnover of the assessee of Rs. 79,34,850/- declared in his return of income the Ld. CIT (A) noticed that the assessee had deposited an aggregate of Rs. 53,75,11,279/- including the cash deposit of Rs. 1,44,09,200/- in the four bank accounts maintained by the appellant. On query the assessee had furnished detailed explanation vide letter dated 27/08/2018. The aforesaid letter is extracted herein below from the order of the Ld. CIT (A) for reference:-

"With reference to the above captioned; I would like to submit the following in respect of the show-cause notice issued:

- 1. During the financial year 2014-18, I was into consultancy business and acted as an intermediary or agent between different vendors for getting business for them and if that particular business takes place or deal completed between them we will get some consultancy charges based on the transaction value and which will be approximately 0.25% to 0.5%.*
- 2. As a safety precaution, we take the amount from the buying party and keep it in our bank account and once that transaction is materialized/ deal is completed/ we will release the payment to the supplier and take consultancy charges from them and if the transaction is not happened due to any reason, we will return that amount without deducting any amount towards our consultancy. It will be treated as refundable advance till the time of completion of transaction.*
- 3. As I am an intermediary between two parties to get some business for our customers, no bill or invoices are raised on us for the money received and paid. We acted as a custodian for the money received till the completion of transaction. In view of the*

above we have not shown the same as turnover in our books of accounts. However, we have disclosed the consultancy income earned from all the transactions that were completed.

4. *As per the show-cause notice issued, it was mentioned that; the profit margin from the said business is @ 11.20% which arrived based on the profit declared by me in my tax returns. In this regard, I would like to bring to your kind attention that, the total consultancy income declared in my tax return represents the margin received from various customers after completion of transaction/ deal, i.e by considering all my bank transactions. We have disclosed the same as our gross consultancy and from which I have offered net profit of Rs.8,89,200/- after deduction all indirect expenses.*
5. *Further, we would like to inform you that in present business scenario, no business will give such huge profit margin of Rs.11.20% like you mentioned in the show case notice.*
6. *Without prejudicial to the above, as per the show cause notice, it was mentioned that, all the bank credits are treated as my turnover and on which profit is estimated @ 11.70%. In this regard I would like to submit that, some of the transactions were not happened and return the amount to concerned party also and request you to not consider the same as turnover and there are some internal transfer which were transferred between my own personal accounts which cannot be considered as turnover. Details are as per Annexure.*
7. *In view of the above, I request you good selves to consider the facts submitted and not to enhance the addition made by the Assessing officer.”*

6. Thereafter the Ld. CIT (A) directed the assessee to furnish evidence for earning commission between 0.25% to 0.5% on the turnover which the assessee was unable to produce. Since, assessee had declared in his return of income net profit @ 11.2% on his turnover of Rs. 79,34,850/-, the Ld. CIT (A) adopted the same rate of profit for the assessee's additional turnover determined by the Ld. CIT(A) of Rs. 51,51,61,279/- being the aggregate amount reflected in the bank account of the assessee of Rs. 53,75,11,179/- excluding the cash

deposit of Rs. 1,44,09,200/- and the turnover admitted by the assessee of Rs. 79,34,850/-. With respect to the cash deposit of Rs. 1,44,09,200/- and the turnover admitted by the assessee of Rs. 79,34,850/- the Ld.CIT(A) sustained the addition made by the Ld. AO of Rs. 94,04,800/- along with the admitted income disclosed in the return of income of 7,00,200/- aggregating to Rs. 1,01,05,000/-.

7. Before us, the Ld. AR vehemently argued by stating that the assessee's business was only arranging finance for his clients which were obtained by him through known sources against which he was receiving commission income between 0.25% to 0.5% on the fund arranged to his clients. He further submitted that the commission received was by way of cash and the same was deposited in his bank account. Further he also clarified that the entire amount of finance procured by him was by cheque which was deposited in his bank account and thereafter handed over to his clients by way of cheque payment. To substantiate the same the assessee had also furnished his four bank statements before the Ld. Revenue Authorities. The Ld. AR further reiterated what was written in the submissions furnished before the Ld. CIT (A) and pleaded that the addition made by the Ld. AO which was sustained by the Ld. CIT (A) and further enhanced are erroneous leading to the scope of complete annihilation of the assessee's business and therefore the addition made by the Ld.AO as well as the enhancement made by the Ld. CIT (A) may be deleted. The Ld. DR on

the other hand argued in support of the orders of the Ld. Revenue Authorities and requested for confirming the order of the Ld. CIT (A).

8. We have heard the rival submissions and carefully perused the materials available on record. There is no dispute with respect to the nature of the assessee's business. The Ld. AO and the Ld. CIT (A) are in agreement that the assessee is engaged in the business of financial intermediary i.e., arranging funds for various parties through known contacts. In such circumstances it is obvious that the assessee will be earning only commission income from his services rendered. The assessee has also produced the bank statement of all his bank accounts before the ld. Revenue Authorities and it is apparent that all the amount received and transferred to the assessee's clients were through cheque payment. It is also apparent that during the relevant assessment year the entire funds received by the assessee in his bank account were passed on to the clients of the assessee baring nominal amount which was to be subsequently funded to the clients of the assessee. Further there are few cash deposits in the bank accounts which the assessee has admitted that it was part of his turnover pertaining to commission income as the same were received in cash, own funds and petty funds arranged. The ld. AO has also accepted that the assessee was only earning commission income and therefore he has ignored the funds received by the assessee through bank as his income as it was further

advanced to various parties, while estimating the additional income of the assessee at 94,04,800/-. The Ld. CIT (A) has also not made any contrary finding on this regard. In these circumstances, the conclusion of the Ld. AO for making addition of Rs. 94,04,800/- and further enhancement of income made by the Ld. CIT (A) of Rs. 5,76,98,279/- by estimating the income at Rs. 11.2% on the amount of Rs. 51,51,61,279/- does not seem to be logical. It can never be presumed that for arranging funds for clients, commission @ 11.2% of the funds arranged, can be earned. When the facts of the case are minutely observed it is apparent that the total amount organized by the assessee from his known source is Rs. 52,31,02,079/- (that is the aggregate amount deposited in the Bank accounts of the assessee of Rs. 53,75,11,279/- excluding the cash deposited by the assessee of Rs. 1,44,09,200/- being the aggregate of commission income earned by the assessee in cash from his business of arranging funds for his clients, petty funds arranged and own funds). Now considering the nature of business of the assessee, even if 1% commission is estimated as the income of the assessee on the funds arranged and handed over to his clients, as against the commission income @ 0.25% to 0.5% admitted by the assessee, the commission that the assessee would have earned will work out to Rs. 52,31,000/- (ie., 1% of 52,31,02,079/-). Further, if we consider 60% of the gross commission received by the assessee as the net income of the assessee the same will work out to only Rs.

31,38,600/- (ie., 60% of 52,31,02,079). Considering these facts and circumstance of the case, We are of the view that, the above mentioned estimate of commission income earned by the assessee during the relevant assessment year seem to be reasonable. Hence, we are of the considered view that on the overall, the assessee's income should be estimated and assessed at Rs. 32,00,000/- (by r/o Rs. 31,38,600/-) worked by us hereinabove. **Accordingly, we hereby direct the Ld. AO to assess the net taxable income of the assessee at Rs. 32,00,000/- as against the returned income of the assessee of Rs. 7,00,200/-.**

9. Consequently, the returned income of the assessee Rs. 7,00,200/-, the addition made by the Ld. AO of Rs. 94,04,800/- and the enhancement of the income by the Ld. CIT (A) of Rs. 5,76,98,279/- shall stand deleted.

10. In the result, appeal of the assessee is partly allowed as indicated hereinabove.

Pronounced in the open Court on the 28th June, 2021.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 28th June, 2021.

OKK

Copy to:-

- 1) Dileef Varanasi, C/o. T. Chaitanya Kumar, Advocate, Flat No.102, Gowri Apts, Urdu Lane, Himayatnagar, Hyderabad.
- 2) Income Tax Officer, Ward-15(3), Hyderabad.
- 3) The CIT(A)-7, Hyderabad.
- 4) The Pr. CIT-7, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File