

**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. 2354/H/2018 Assessment Year: 2013-14		
Nagaraj Kurapati, Hyderabad.  PAN - AKFPK5953K  (Appellant)	Vs.	Income-tax Officer, Ward - 4(1), Hyderabad.   (Respondent)
Assessee by:		Shri ASRSS Siva Prasad
Revenue by:		Shri Rohit Mujumdar
Date of hearing:		23/11/2021
Date of pronouncement:		26/11/2021

**ORDER**

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

This appeal filed by the assessee is directed against CIT(A) - 7, Hyderabad's order dated 24/10/2018 for AY 2013-14 involving proceedings u/s 143(3) of the Income Tax Act, 1961 ; in short "the Act on the following grounds of appeal:

*"Each of the grounds given below is independent and without prejudice to the other grounds of appeal preferred by the Appellant.*

1. *On the facts and circumstances of the case and in law the Ld. Commissioner of Income Tax (Appeals) 7, Hyderabad, erred in sustaining the order of the Income Tax Officer Ward-4(1), Hyderabad by confirming the addition of Rs. 28,01,659/- made towards Bonus Payable, Salaries and Cash credits in capital account.*

2. *Both in law and in Facts of the case, the order made by the Ld. Commissioner of Income Tax (Appeals) 7, Hyderabad is bad in law, arbitrary, contrary to the provisions of law and against the principles of natural justice.*

3. *The Ld. Commissioner of Income Tax (Appeals) 7, Hyderabad should have considered the fact that bonus outstanding amounting to Rs.15,75,000/- as on 31-03-2013 was paid before the due date of furnishing the return of income. Any sum paid to an employee as bonus is allowable under clause (ii) of sub-section 1 of section-36 of Income Tax Act, 1961. As per section-43(B) of The Income Tax Act, 1961 sums referred to in section-36 (1)(ii) shall be allowed as deduction if the sums are paid before the due date of furnishing the return of income u/s 139(1). Confirmation of addition towards Bonus payable is not correct since, Bonus was paid within the time allowed.*

4. *The Ld. Commissioner of Income Tax (Appeals) 7, Hyderabad should have considered the fact that adhoc Disallowance of 10% of salaries amounting to Rs. 11,61,659/- is made by Ld. ITO without any proper material or evidence on record. Adhoc disallowance made without any basis is not permissible under the provisions of Income Tax Act, 1961.*

5. *The Ld. Commissioner of Income Tax (Appeals) 7, Hyderabad ought to have considered that the credits in capital account amounting to Rs. 65,000/- are reasonable considering the business volume of the appellant.*

*6. For these reasons and those which may be urged at the time of hearing of appeal and on the facts and circumstances of the case the addition of Rs. 15,75,000/towards Bonus payable, Rs. 11,61,659/- towards salaries and Rs.65,000/- towards unexplained investments which are confirmed by Ld. CIT (Appeals) 7 may be deleted.*

*7. The appeal craves leave to add to alter, amend, modify, substitute, delete, and lor rescind all or any of the grounds of appeal on or before the final hearing, if the necessity so arises.*

*The appellant prays for appropriate relief based on the said grounds of appeal and the facts and the circumstances of the case."*

2. Briefly the facts of the case are that the appellant filed his return of income for the A.Y.2013-14 on 15.09.2013 declaring total income of Rs.12,21,870/-. The return was processed u/s.143(1) of the I.T. Act on 05.03.2015 resulting in Nil-. Subsequently, the case was selected for scrutiny under CASS and accordingly, Notice u/s.143(2) was issued. The AO completed the assessment u/s.143(3) of the Act on 30-3-2016 determining total income at Rs. 40,23,529/- by making various additions.

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

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

5. Assessee has raised 7 grounds of appeal, out of which, ground Nos. 1, 2, 6 & 7 are general in nature, hence, need no adjudication.

6. As regards ground No. 3 relating to the addition of Rs. 15,75,000/- towards disallowance of bonus, the AO disallowed this amount on the ground that the said amount was not stated in the tax audit report.

6.1 Before the CIT(A), the AR of the assessee furnished details of the bonus paid to various employees without any dates of payment. Therefore, the CIT(A) confirmed the addition by observing that the detailed annexure - 1 enclosed to substantiate the bonus payments contained only signature of the persons without any dates of payment.

6.2 Before us, the Id. AR of the assessee submitted that merely because there was error in filing of tax audit report, an assessee cannot be disallowed benefit allowable under the Act. He submitted that the bonus payable of Rs. 15,75,000/- was paid during the months of April & May, 2013 i.e. well before the due date for filing of return of income.

6.3. The Id. DR on the other hand relied on the orders of lower authorities and submitted that since the assessee failed to prove that on what dates the bonus was paid by way of documentary evidence, the addition made by the AO is proper.

6.4. We have considered the rival submissions and perused the material on record as well as gone through the orders of revenue authorities. The Id. AR of the assessee submitted that the bonus was paid during the months of April & May, 2013 i.e. on 30/04/2013, 10/05/2013 & 30/05/2013. The assessee had furnished Annexure - 1, in which the details of employees, amounts paid & signature without the date of payment. The reason has taken by the CIT(A) for confirming the addition that date of payments were not mentioned, is not sufficient to dismiss the ground. He ought to have made an enquiry with the employees who have got the payment of bonus whether they have received the payment of bonus, if so, on what dates. The CIT(A) failed to do so. As per the details submitted before us on 23/11/2021 the bonus has been paid on 30/04/2013, 15/05/2013 and 30/05/2013, which is much before the filing of return of income u/s 139(1) of the Act. Therefore, we set aside the order of the CIT(A) and direct the AO to allow the assessee's claim of bonus of Rs. 15,75,000/-. Accordingly, ground No. 3 is allowed.

7. As regards ground No. 4 relating to the addition of Rs. 11,61,659/- towards disallowance of expenditure on sales, the Assessing Officer disallowed 10% of the salary expenditure of Rs.1,16,16,589/- on the ground that the appellant did not provide identification documents of few employees as requested by him.

7.1 The CIT(A) confirmed the addition observing that the AR of the appellant did not provide the identification documents of the employees in order to prove the genuineness of the payments. Mere submission of the signature of the persons on the list of the payment sheet without giving identification documents of employees is not enough. No other independent evidence was led to prove the genuineness of the payments. Hence, the disallowance made by the Assessing Officer is confirmed.

7.2 We have considered the rival submissions and perused the material on record. Even before us, the Id. AR of the assessee failed to provide the complete identification documents of the employees and has submitted on 23/11/2021 only for 24 employees. Therefore, to meet the ends of justice, we restrict the disallowance to 8% of the salary expenditure of Rs. 1,16,16,589/- as against 10% disallowed by the revenue authorities. Accordingly, ground No. 4 is partly allowed.

8. As regards ground No. 5 relating to the addition of Rs. 65,000/- towards unexplained investment, the AO observed that during the course of scrutiny proceedings the assessee submitted the reconciliation of capital A/c. From the statement submitted the AO noticed that the assessee had credited Rs.10,000/- on 25/08/2012, Rs.20,000/- on 12/10/2012, Rs.15,000/- on 13/12/2012, Rs.20,000/- on 19/08/2012 by way of cash to the capital A/c and the capital A/c has increased by Rs. 65, 000/-. The assessee has also submitted a copy of the cash book maintained by the assessee during the course of business carried out by him. From the cash book the AO noticed that there are no entries in the cash book regarding the above mentioned cash addition made to the capital A/c. Hence the AO treated an amount of Rs.65,000/- as unexplained investment and the same was added to the income returned.

8.1 The CIT(A) confirmed the addition observing that in the course of appellate proceedings, the AR of the appellant accepted that the capital addition was not supported with any documentary evidence and, therefore, the contention of the appellant that these credits may relate to the cash withdrawals for business purposes cannot be accepted.

8.2 Before us, the Id. AR of the assessee submitted that the assessee incurs cash expenditure from time to time for the business purposes. Further, he submitted that while

these amounts were accounted by the firm's accountant, considering the amounts involved, the assessee may have missed to account these amounts in his personal records.

8.3 The Id. DR on the other hand relied on the orders of revenue authorities and submitted that the assessee accepted that the capital addition was not supported with any documentary evidence.

8.4 We have considered the rival submissions and perused the material on record as well as gone through the orders of revenue authorities. Considering the facts noted by the lower authorities that the amounts were not entered in the cash book, we uphold the findings of the lower authorities with regard to the addition of Rs. 65,000/-to capital account of the assessee. Thus, we uphold the order of CIT(A) and dismiss the ground No. 5 of the assessee.

9. In the result, appeal of the assessee is partly allowed in above terms.

Pronounced in the open court on 26<sup>th</sup> November, 2021.

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

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

Hyderabad, Dated: 26<sup>th</sup> November, 2021.

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*Copy to :*

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<i>2</i>	<i>ITO, Ward - 4(1), Hyderabad.</i>
<i>3</i>	<i>CIT(A) - 7, Hyderabad</i>
<i>4</i>	<i>Pr. CIT - 1, Hyderabad</i>
<i>5</i>	<i>ITAT, DR, Hyderabad.</i>
<i>6</i>	<i>Guard File.</i>