

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ‘ A ‘ Bench, Hyderabad**

Before

**Before Shri Rama Kanta Panda, Accountant Member
AND
Shri Laliet Kumar, Judicial Member**

ITA No.412/Hyd/2020		
Assessment Year: 2014-15		
Sadagauni Kesari Hanuman Goud, Hyderabad. PAN : ANSP9512N.	Vs.	The Asst. Commissioner of Income Tax, Circle – 4(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Sri Mahendar Kumar Upadhyay	
Revenue by:	Sri K.P.R.R. Murthy.	
Date of hearing:	22.06.2022	
Date of pronouncement:	23.06.2022	

ORDER

Per Laliet Kumar, J.M.

This appeal is filed by the assessee feeling aggrieved by the order of Commissioner of Income Tax (Appeals) – 1, Hyderabad, (hereinafter referred as “ld.CIT(A)”) passed on 23.02.2017 for A.Y. 2014-15 on the following grounds :

“1. The Learned Commissioner of Income Tax (Appeals) - 1, Hyderabad, erred in law and on Facts of the case.

2. Whether on the facts and circumstances of the case, the learned Commissioner of Income Tax (Appeals) - 1, Hyderabad is correct in upholding the addition of Rs. 48,74,300/- being cash deposits in Bank, oblivious of the fact that the petitioner has sufficient sources for the deposits.

3. *Whether on the facts and circumstances of the case, the learned Commissioner of Income Tax (Appeals) - 1, Hyderabad is correct in relying on the Remand Report of the Assessing Officer and correct in stating that there are no reasons for withdrawals of amounts to the tune of Rs.48,74,300/-, though the Assessing Officer accepted the cash flow statements and Bank statements and withdrawals on various dates to the tune of Rs.48,74,300/-*

4. *Whether on the facts and circumstances of the case, the learned Commissioner of Income Tax (Appeals) - 1, Hyderabad is correct in stating that the petitioner has no sources for cash deposits to the tune of Rs.36,80,000/- despite the fact that the Assessing Officer clearly observed in remand proceedings that the petitioner received cheque of Rs.29,47,112/- from GHMC towards compensation on land acquisition.*

5. *Whether on the facts and circumstances of the case, the learned Commissioner of Income Tax (Appeals) - 1, Hyderabad is correct in stating that the petitioner has no obligation to accumulate amounts in spite of the fact that in remand proceedings the Assessing Officer accepted the fact that the petitioner is bound by Hon'ble Supreme Court's direction on 16-8-2013 to pay to the landlord, who is not traceable.”*

2. The brief facts of the case are that assessee is an individual who was carrying on his profession in rendering services to Banks in the name of M/s. Master Services, filed his return of income for A.Y. 2014-15 on 28.12.2014 admitting total income of Rs.23,86,290/-. Subsequently, the case was selected for scrutiny through CASS and notices u/s 143(2) and 142(1) of the Act were issued. During the course of assessment proceedings, assessee furnished Form – 26AS, ledger extracts etc. After verifying all the documents, assessment was completed by the Assessing Officer determining the total income at Rs.74,81,770/- after making various disallowances, including the disallowance of cash deposits u/s 69A of the Act at Rs.48,74,300/-.

3. Aggrieved with the order of Assessing Officer, assessee carried the matter before the Id.CIT(A) against the addition of Rs.48,74,300/- u/s 69A of the Act towards cash deposits. Ld.CIT(A) dismissed the appeal of the assessee holding as under :

“7. I have carefully considered the facts of the case, assessment order, submissions of the appellant, remand report and the reply thereto. The appeal is filed against the addition made by the Assessing officer u/s.69A towards cash deposits of Rs.48,74,300/ -. After verification of Assessment order, Remand Report and submissions of the appellant, I also observed that there is no evidence to prove the cash deposits in the bank by the appellant. As per the proofs submitted by the appellant also, there are several cash deposits from different persons which were not proved by the appellant. Therefore, I am in agreement with the Assessing officer and hence the addition made by the Assessing officer confirmed.”

3.1. Aggrieved with the order of Id.CIT(A), assessee is in appeal before us.

4. Before us, Id.AR has submitted that assessee has provided the bank details and cash book to the lower authorities. It was submitted that the assessee had deposited the cash amount in the HDFC Bank with a view to make the deposits with the District Collector, Hyderabad as per the directions of the Hon'ble Supreme Court in Civil Appeal No.2885-2887 of 2005. However, the tax authorities have noted that amount and made additions for the said amount and also for the other amounts. The lower authorities have failed to acknowledge the fact that the amount which was deposited with the bank was earlier available with the assessee, as mentioned by the assessee in the application before the Hon'ble Supreme Court. The assessee in fact had tendered the amount to the land owners to

whom the money was due and however on account of their non-availability, a direction was given by the Hon'ble Supreme Court to deposit the amount with the District Collector, Hyderabad. The assessee has tried to justify the availability of the amount with the help of cash book / cash flow statement before the lower authorities. However, none of the authorities have applied their mind to the said documents. It was submitted that the above said fact has not been verified by the lower authorities and have made the entire additions, without examining these documents and hence, the additions required to be deleted.

5. On the other hand, the ld.DR has strongly relied on the orders of lower authorities. The Ld. DR had submitted, it will be in the interests of justice, if the matter is remanded back to the file of the lower authorities for examining the cash book, cash flow statement and other documents so as to find out wither the assessee was having available cash with him before the same was deposited by him in the bank, so as to comply with the direction of the Hon'ble Supreme Court.

6. We have heard the rival submissions and perused the material on record. In this case, the Assessing Officer had made addition of Rs.48,74,300/- by treating the cash deposits made by the assessee in HDFC Bank as 'unexplained'. It is the case of the assessee that the assessee had received the compensation on land of Rs.29,47,112/- on account of compulsory acquisition of the land and thereafter, the assessee has withdrawn the cash on various dates. It was also the case of the assessee that a litigation was going on before the Hon'ble High Court and before the Hon'ble Supreme Court. The

assessee is required to make payments to, respondent in the Civil Appeal No.2885-2887 of 2005, before the hon'ble Supreme Court. From the perusal of the bank statement, it is clear that the assessee has been withdrawing the amounts from his bank on various occasions. However, the purposes of withdrawal of amounts had not been mentioned by the assessee in the cash book. It is correct that the Hon'ble Supreme Court vide order dt.16.08.2013 has directed the assessee to deposit the amount with the District Collector, Hyderabad within a period of two weeks. Pursuant to the directions of hon'ble Supreme Court, the assessee had deposited the amount of Rs.33,34,000/- with the District Collector, Hyderabad. The ld.AR had drawn our attention to the bank statement of the HDFC wherein the assessee has shown to have debited an amount of Rs.36,80,000/- on 29.08.2013 in cash. Thereafter, on 29.08.2013, a cheque was issued in favour of the District Collector, Hyderabad for an amount of Rs.33,34,000/-.

7. It is the case of the assessee before us that the assessee has produced cash book, wherein the withdrawals and deposits on various dates were duly mentioned. It is the case of the assessee that on various occasions, the cash was withdrawn which was subsequently deposited by him was treated as 'unexplained cash'. However, the Assessing Officer had treated the amount of Rs.48,74,300/- as unexplained cash deposits by the assessee in HDFC Bank. This exercise has been done by the Assessing Officer without examining the cash book of the assessee. The ld.DR has drawn our attention to page 45 of the Paper Book wherein the statement of cash flow as on 28.09.2013 was mentioned.

8. In our considered opinion, the lower authority was required to examine the cash flow of the assessee and try to find out the differences in cash deposited as against the cash withdrawals. However, this exercise has not been done by the lower authorities. In the light of the above, considering the totality of the facts and circumstances and in the interests of justice, we remand back the matter to the file of Assessing Officer with a direction to verify various cash withdrawals and cash deposits with the help of cash book and thereafter, make a complete afresh assessment in accordance with the law. Needless to say that the Assessing Officer while carrying out this exercise shall grant the opportunity of hearing to the assessee and the assessee is also directed to file all the relevant documents as called for.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

Sd/-

Sd/-

(RAMA KANTA PANDA) ACCOUNTANT MEMBER	(LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 23rd June, 2022.

TYNM/sps

Copy to:

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2	ACIT, Circle – 4(1), Hyderabad.
3	CIT-(Appeals) – 1, Hyderabad
4	Pr. CIT-1, Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File