

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD

BEFORE
SHRI RAMA KANTA PANDA, ACCOUNTANT MEMBER
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 72/Hyd/2020
(निर्धारण वर्ष / Assessment Year: 2016-17)

Sri Sai Kumar Tatipalli, Vs. Income Tax Officer,
Jaipur (Mandal) Ward-1,
Mancherial Dist., Mancherial
[PAN No. APQPT3005H]

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा / Assessee by: Shri A.V.Raghuram, AR
राजस्व द्वारा / Revenue by: Shri Kumar Aditya, DR

सुनवाई की तारीख/Date of hearing: 11/07/2022
घोषणा की तारीख/Pronouncement on: 14/07/2022

आदेश / ORDER

PER K. NARASIMHA CHARY, JM:

Aggrieved by the order dated 28/11/2019, passed by the Learned Commissioner of Income Tax (Appeals)-2, Hyderabad ("Ld. CIT(A)") in the case of Sri Sai Kumar Tatipalli ("the assessee") for the AY.2016-17, assessee filed this appeal.

2. Only issue involved in this appeal is the addition of Rs. 43 lakhs as unexplained credit in the capital account of the assessee. Brief facts of the case relating to this issue are that the assessee is an individual. For the assessment year 2016-17 he did not file the return of income. There was a survey under section 133A of the Income Tax Act, 1961 (for short "the Act") on 02/03/2017 and subsequently the assessee filed the return of income on 22/02/2018 declaring an income of Rs. 23,22,030/-. During the course of survey operations documents/books of account/loose papers were found and impounded.

3. During the course of assessment, learned Assessing Officer found in the personal account filed along with the return of income, an amount of Rs. 43 lakhs towards the sale consideration of agricultural land. However, in the computation of income the assessee did not offer any capital gains income nor did he file any supporting documentary evidence for sale of agricultural lands. Assessee submitted that such an amount of Rs. 43 lakhs was received as sale consideration of agricultural land which is an agricultural land and beyond the specified limits from the municipal limits and therefore, the asset transferred was not a capital asset and the liability of declaration of capital gains on such sale does not arise. According to the assessee the original receipt for Rs. 43 lakhs cum agreement of sale on stamp dated 06/11/2015 between one Singham Madhuraiah and Tatipalli Srinivas (father of the assessee) for the sale consideration of Rs. 43 lakhs was impounded at page No. 381 and as per such document the payment of Rs. 16 Lakhs was received on 15/11/2015, Rs. 13 lakhs on 20/02/2016 and the balance of Rs. 13 Lakhs was received after that period but within the same year. Assessee further stated that such persons and also one Md.

Ismail and Smt. Dodala Sandhya Rani were examined under oath by the then learned Assessing Officer and they have admitted the purchase of agricultural land for a sum of Rs. 43 lakhs.

4. Learned Assessing Officer did not accept this contention of the assessee on the ground that the lands covered under this agreement were sold by the father of the assessee, and not by the assessee himself and, therefore, such a document does not belong to him. Further according to the learned Assessing Officer the assessee failed to substantiate his claim of sale of agricultural land by submitting necessary documentary evidence and the alleged lands sold under the agreement were not to be found in the Balance Sheet of the assessee as on 31/3/2015 on assets side. For these reasons, learned Assessing Officer recorded that the assessee failed to discharge his onus of substantiating his claim and therefore the sum of Rs. 43 lakhs shown in the personal account of the assessee has to be added to his income by treating the same as income from other sources.

5. In the appeal preferred by the assessee, Ld. CIT(A) considered this issue at length and on verification of documents more particularly the agreement, between the father of the assessee and the purchase of the property, recorded that though the agreement was entered into on 6/11/2015, the sale deeds were executed on 22/06/2016 on which date a sum of Rs. 23,77,000/- was received in cash. It is, therefore, clear that, according to the Ld. CIT(A) the consideration for such lands was reduced from Rs. 43 lakhs to Rs. 23.77 lakhs as is evidenced by the sale deeds. On this premise Ld. CIT(A) concluded that the document dated 06/11/2015 produced before the learned Assessing Officer had no evidentiary value whatsoever and such document is self-serving and liable to be rejected.

Ld. CIT(A) further recorded that the assessee bought various properties during the year and the property's worth Rs. 62,78,760/- were bought on 30/06/2015, which was later than the date of agreement being 06/11/2015 and, therefore, the credit issue of Rs. 43 lakhs was to be considered in that respect. For these reasons, Ld. CIT(A) rejected the contentions of the assessee and confirmed the additions made by the learned Assessing Officer, under section 115 BBC of the Act.

6. Aggrieved by such an action of the Ld. CIT(A), assessee is before us in this appeal contending that the said amount was the consideration relating to the sale of agricultural lands and the sale consideration was agreed as per the agreement and was received by the assessee. Ld. AR heavily relied upon the agreement dated 06/11/2015 impounded during the survey and to be found at page No.381 of the impounded material in the form of Annexure TS/A/04.

7. Per contra, Ld. DR submitted that even if we go by the contents of the agreement dated 06/11/2015, a sum of Rs. One lakh only was received under such agreement and the balance of sale consideration was to be received in future, and in the absence of any clinching evidence as to such payments, it cannot be believed that the assessee properly explained the source of the credit to be found in the personal account filed along with the return of income. He submitted that, as rightly observed by the Ld. CIT(A), pursuant to this agreement 06/11/2015 four sale deeds were found to have been executed on 22/06/2016, under which the total sale consideration was Rs. 23,77,000/- and that too such sale consideration was received by the assessee during the financial year relevant for the assessment year 2017-18 and cannot be used to explain the source of

credit in question. Ld. DR further submitted that the Ld. CIT(A) found that the assessee bought various properties during the year and the properties worth Rs. 62,78,760/- were bought on 30/06/2015 that is the date before 06/11/2015, wherein the credit issue of Rs. 43 lakhs was to be considered and further that for the properties acquired before 06/11/2015, the income declared during the survey of Rs. 20 lakhs was a clear credit available to the assessee for telescoping. Basing on these, Ld. DR submitted that there is no merit in the contention of the assessee.

8. We have gone through the record in the light of the submissions made on either side. It is an undisputed fact that in the personal account filed along with the return of income, the assessee had shown an amount of Rs.43 lakhs being the sale consideration of agricultural land, but did not offer any capital gains nor did he file any supporting documentary evidence to establish the sale of agricultural land. Assessee is heavily relying on the agreement dated 06/11/2015 said to have been executed by his father agreeing to sell such lands by receiving an advance sale consideration of Rs. One lakh and agreeing to receive the balance in future dates. Record does not reveal that the assessee ever produced any evidence to show that on the dates so mentioned in the agreement such balance sale consideration was paid.

9. A reading of the agreement dated 06/11/2015 to be found at page No. 15 of the paper book clearly shows that as on the date of such agreement, the father of the assessee received Rs. One lakh. The balance sale consideration was agreed to be received on 15/11/2015, 20/12/2015 and 20/12/2016 for registration of the property. So it is clear that, the balance sale consideration was to be received by the father of the assessee

on the dates on which the respective properties were registered on the name of the vendees. At this juncture, the observations of the Ld. CIT(A) that the property was sold on 22/06/2016 under four registered sale deeds and the total sale consideration received under these four sale deeds was Rs. 23.77 lakhs.

10. On the face of this observation of the Ld. CIT(A), there is no evidence that is forthcoming on behalf of the assessee to show that, as a matter of fact the payments were made under this agreement dated 06/11/2015, on the date so mentioned therein and the sale deeds were accordingly registered on the name of the vendees. There is also no denial of the fact that, as a matter of fact, the sale deeds were registered on 22/06/2016 in respect of the properties that is to be found in the agreement of sale dated 06/11/2015. Apart from the fact that the sale consideration under these four sale deeds was Rs. 23.77 lakhs, even such amount was also received in the financial year relevant for the assessment year 2017-18. The findings of the Ld. CIT(A) that the assessee bought various properties during the year and the property worth Rs. 62,78,760/- was bought on 30/06/2015 which was earlier to the agreement of sale, wherein the credit issue of Rs. 43 lakhs was to be considered, goes unchallenged and unimpeached.

11. For all these reasons, we are of the considered opinion that the alleged agreement of sale dated 06/11/2015 is not at all helpful in proving the case of the assessee and there is no evidence to show that the assessee received the entire sale consideration of Rs. 43 lakhs during the previous year relevant to the assessment year 2016-17. Even if we believe this, still the doubt entertained by the Ld. CIT(A) that inasmuch as the assessee

bought property worth Rs. 62,78,760/- on 30/06/2015 wherein the credit issue of Rs. 40 lakhs was to be considered, goes unimpeached. We, therefore, do not find any reasons to interfere with the findings and the conclusions reached by the authorities below. There is no merit in the grounds of appeal and the same are dismissed.

12. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on this the 14th day of July, 2022

Sd/-
(RAMA KANTA PANDA)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

TNMM

Hyderabad,
Dated: 14/07/2022

Copy forwarded to:

1. Sri Sai Kumar Tatipalli, H.No.C-46/A, Narsingapur (Village), Jaipur (Mandal), Mancherial Dist.,
2. Income Tax Officer, Ward-1, Mancherial.
3. CIT(Appeals)-2, Hyderabad.
4. Pr.CIT-2, Hyderabad.
5. DR, ITAT, Hyderabad.
6. GUARD FILE

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD