

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

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

ITA No.650/Hyd/2020		
Assessment Year: 2018-19		
D.Vishnu Vardhan Rao Plot No.36 Ram Naresh Nagar Tirumalagiri Hyderabad-500 072  PAN : AIJPD6549E	Vs.	DCIT,CC-2(3) Signature towers Kondapur Hyderabad-500 084
(Appellant)		(Respondent)
Assessee by:		Ms.S.Sandhya, Advocate
Revenue by:		Shri K.P.R.R.Murthy, Sr.AR
Date of hearing:		30.06.2022
Date of pronouncement:		30. 06.2022

**ORDER**

**Per Shri Rama Kanta Panda, A.M.**

This appeal filed by the assessee is directed against the order dated 24.09.2020 of the Learned Commissioner of Income Tax (Appeals)-12, Hyderabad relating to AY 2018-19.

2. Facts of the case, in brief, are that the assessee is an individual and derives income from salary, commission, income from house property and other sources. Search & Seizure operation u/s 132 of I.T. Act was conducted in the case of M/s. Kapil Consultancy Services Pvt. Ltd. (Formerly known as M/s.Kapil Chit Funds Pvt. Ltd.), on 07.04.2017 covering business and residential premises of the group along with the persons / concerns connected to it by the DDIT(Inv), Unit-1(4), Hyderabad. The search operation covered the business premises of the firms M/s. Kapil Group and residential premises of the

Directors/partners/ Managing director's of these Group. The assessee filed his return of income on 29/08/2018, for the Asst. Year 2018-19, declaring total income of Rs.50,15,110/- which comprises of salary income, income from other sources, business income and deduction under chapter-VI-A of the Act. The case was selected for compulsory scrutiny as per the CBDT's instructions. Notice u/s, 143(2) an 142(1) for the Asst. Year 2018-19 dated 19/06/2019 was issued and served on the assessee.

3. During the course of assessment proceedings, the AO noted that cash of Rs.8,13,000/- was found during the course of search and seizure operation in the residence of the assessee out of which an amount of Rs.8 lacs was seized. The assessee in his statement recorded during the course of search on 08.04.2017 had stated that the amount was received from Sri D.Nageswara Rao, Sri D.Venkateswar Rao, B.Bhemashwar Rao and Sri Sreedhar Rao.

3.1 Subsequently, during the post search proceedings the assessee claimed that the money has been received from Sri D. Nageswar Rao, Shri B. Sreedhar Rao, Sri D Venkataiah, Sri K. Ling Murthy, Sri Dipankar Pal, Sri K Raja and Sri B. Bheemeshwar Rao.

4. However, the AO rejected the claim of the assessee that the money was received from them for the marriage of his nephew as not genuine by recording the following.

*“However, the justification given by the assessee for keeping their cash with the assessee on premise of the nephew's marriage is not appears to be genuine and against the human probability. It is evident that the assessee has not mentioned the name of Shri Dipankar Pal's name in his*

*sworn statement even though he has claimed to have taken money of Rs.3,00,000/- from him, out of Rs. 8,13,000/- found in his residence. This further strengthens the possibility of afterthought to explain huge new currency found in his residence in spite of strict cash withdrawal restrictions imposed by the Government during the period.”*

5. Rejecting the various explanations given by the assessee, the AO made addition of Rs. 8,13,000/- to the total income of the assessee.

6. In appeal, the Id.CIT(A) deleted an amount of Rs.5,13,000/-, but sustained an amount of Rs.3 lacs by observing as under:-

*“5.3 I have carefully considered the submissions made by the appellant as well as the observations of the AO in the impugned order. Briefly the facts are during the course of search on 07-04-2017 cash of Rs.8,13,000/- was found in the residence, out of which Rs.8,00,000/- was seized. The assessee claimed that the money has been received from the Sri D.Nageswara Rao, Sri B.5reedhar Rao, Sri D.Venkataiah, Sri Dipankar Pal, Sri K.Raju and Sri B.Bemeswara Rao. The assessee stated that the cash was kept on account of nephews marriage and was lent by the relatives to purchase various items for marriage purposes. The Assessing Officer in the assessment order found discrepancies in these explanations and has considered it to be an after-thought to explain huge new currency found despite strict cash withdrawal restrictions during the post demonetization period.*

*5.3.1 I have considered the submissions of the appellant and the contentions of the AO. The appellant has furnished details of cash withdrawals from Sri D.Nageswara Rao, Sri B.5reedhar Rao, Sri D.Venkataiah, Sri Dipankar Pal, Sri K.Raju and Sri B.Bemeswara Rao which totaling to Rs.8,00,000/- The appellant has submitted that most of these people are appellant's relatives and have lent the money towards marriage expenses. They have also furnished their bank statements and agricultural Pattadar pass books to show that amount was actually withdrawn from the bank. These confirmation letters and bank statements were also filed before the AO. On perusal of these documents it is seen that in the case of Shri Dipankar Pal, the confirmation for hand loan of Rs.3,00,0000/- was dated 28-08-2017 which was agreed to be returned in four equal instalments from the month of Sep'2017. As against this, the cash withdrawals in the bank accounts vary from 06-03-2017 to 28-03-2017 totaling to Rs.3,00,000/-. In view of the apparent discrepancy, the loan confirmation of Shri Dipankar Pal is not acceptable and the balance received from other parties is found to be in order. Therefore, the disallowance to the extent of Rs.3,00,000/- is confirmed and the balance of Rs.5,13,000/- is directed to be deleted.*

*6.0 In the result, the appeal of the appellant for the AY 2018-19 partly allowed.”*

7. Aggrieved with such order of the Id.CIT(A), the assessee is in appeal before the Tribunal by raising the following grounds.

*1) The order of the learned Commissioner of Income-tax (Appeals) is erroneous to the extent it is prejudicial to the appellant.*

*2) The learned Commissioner of Income-tax (Appeals) erred in confirming Rs.3,00,000/- out of Rs.8, 13,000/- made by the Assessing Officer.*

*3) The learned Commissioner of Income Tax (Appeals) ought to have considered the fact that the entire amount found during the course of search was explained properly and, therefore, the learned CIT(A) ought not to have confirmed Rs.3,00,000 /-.*

*4) Any other ground or grounds that may be urged at the time of hearing.*

8. The Id.Counsel for the assessee reiterated the same arguments as made before the Id.CIT(A) and submitted that the Id.CIT(A) without appreciating the facts properly sustained an addition of Rs. 3lacs, which is not justified.

9. The Id. DR on the other hand submitted that the Id.CIT(A) is very liberal in giving relief of Rs.5,13,000/- and has only sustained an amount of Rs.3 lacs since the assessee could not substantiate the discrepancy in the loan confirmation of Shri Dipankar Pal. Therefore, the order of the Id.CIT(A) being in accordance with law should be upheld and the grounds raised by the assessee should be dismissed.

10. I have considered the rival arguments made by both the sides, perused the orders of the AO and Id.CIT(A) and the paper book filed on behalf of the assessee. I find the AO in the instant case made addition of Rs.8,13,000/- being cash found from the residence of the assessee during the course of search action, on the ground that the assessee could not explain the source of such cash found at his residence. I find the Id.CIT(A) deleted an

amount of Rs.5,13,000/- and sustained an amount of Rs.3 lacs, the reasons of which have already been reproduced in the preceding paragraphs. I do not find any infirmity in the order of the Id.CIT(A) on this issue, who after analyzing the detailed submission filed by the assessee, has granted relief of Rs.5,13,000/- and sustained an amount of Rs. 3 lacs, since there were certain discrepancies in the loan confirmation of Shri Dipanka pal. The Id. Counsel for the assessee could not point out any illegality or perversity in the order of the Id.CIT(A) on this issue so as to take a contrary view than the view taken by the Id.CIT(A). We therefore, uphold the order of the Id.CIT(A) and grounds raised by the assessee are dismissed.

11. In the result, appeal filed by the assessee is dismissed.

Order pronounced in the Open Court on 30<sup>th</sup> June, 2022.

<b>Sd/-</b> <b>(LALIET KUMAR)</b> <b>JUDICIAL MEMBER</b>	<b>Sd/-</b> <b>(RAMA KANTA PANDA)</b> <b>ACCOUNTANT MEMBER</b>
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Hyderabad, dated 30<sup>th</sup> June, 2022.

*Thirumalesh/sps*

Copy to:

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2	DCIT,CC-2(3),Signature towers Kondapur,Hyderabad-500 084
3	CIT(A)-12,Hyderabad
4	Pr.CIT(Central), Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

*By Order*