

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “SMC”, HYDERABAD**

BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.294/Hyd/2022		
Assessment Year: 2013-14		
Chidipothu Srinivasa Rao, Edara, Prakasam District. PAN : AISPC9563C.	Vs.	The Income Tax Officer, Ward – 1, Ongole.
(Appellant)		(Respondent)
Assessee by:		Ms. Sandhya, Advocate
Revenue by:		Shri Ajith Kumar Laskar
Date of hearing:		29.08.2022
Date of pronouncement:		29.08.2022

ORDER

Per Laliet Kumar, J.M.

The appeal of the assessee for A.Y 2013-14 arises from the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi’s order dated 31.05.2022 involving proceedings under section 147 of Income Tax Act, 1961 (in short, “the Act”) raising the following grounds :

“1. The order of the ld.CIT(A) is contrary to the facts and also the law applicable to the facts of the case.

2. The ld.CIT(A) is not justified in disposing of the appeal without giving sufficient opportunity of hearing to the appellant.

3. The ld.CIT(A) ought to have held that the notice issued u/s 148 of the Act is not in accordance with law and as such ought to have quashed the said notice and the consequent reassessment order as void ab initio.

4. The ld.CIT(A) is not justified in sustaining the addition of Rs.13,40,500/- made by the Assessing Officer u/s 69A of the Act towards alleged unexplained cash deposits in bank account.”

2. The brief facts of the case are that assessee had deposited cash of Rs.13,40,500/- in the saving bank account and also received interest amount of Rs.33,779/- during the F.Y. 2012-13. As assessee did not file the return of income for A.Y. 2013-14, notice u/s 133(6) was issued and since no compliance, total cash amount of cash deposit and interest income remained unexplained. Subsequently, the case was reopened for re-assessment u/s 147 of the Act and notice u/s 148 of the Act was issued and was duly served on the assessee. In response to the same, assessee filed e-return on 30.06.2020 for A.Y. 2013-14 declaring income of Rs.2,13,930/- under the head salary and income from other sources. Notice u/s 143(2) of the Act was issued on 24.09.2020. Later, notice u/s 142(1) along with questionnaire was issued and assessee uploaded replies as called for along with furnishing the confirmation from the persons from whom he has received the amount in cash. After considering the replies of the assessee, source of amount of cash deposit of Rs.13,40,500/- was remained unexplained and the same was added back to the income of the assessee. Since the assessee has concealed his income, penalty proceedings u/s 271(1)(c) of the Act were also initiated separately. Finally, assessment was completed u/s 143(3) / 147 r.w.s. 144B of the I.T. Act by assessing the income of the assessee at Rs.15,54,430/-.

3. Feeling aggrieved with the order of AO, assessee filed an appeal which was transferred to NFAC, Delhi. On appeal, NFAC, Delhi had dismissed the appeal of assessee vide order dt.31.05.2022.

4. Feeling aggrieved with the order of Id.CIT(A), NFAC, Delhi, assessee is now in appeal before us.

5. In this case, the Assessing Officer had made an addition of Rs.13,40,500/- in the hands of the assessee on account of the cash deposited in the savings bank account. During the course of assessment proceedings, the assessee had given the explanation that the cash was received from his close relatives and the details of which are given at para 5 of the assessment order. However, the AO and Id.CIT(A) were not satisfied with the explanation given by the assessee and the said creditors. I have gone through the record. In fact, Smt. Ch. Srilekha, the wife of the assessee had submitted that she had given the cash of Rs.3,99,500/- to her husband from her Sreedhan amount and also from her other savings. The explanation given by the wife of the assessee reads as under :

“.....With reference to the above, this is to confirm that I Ch. Srilekha having PAN No.MHBPS8192K. I have given cash Rs.3,99,500/- (Rupees Three Lakhs Ninety Nine Thousand Five Hundred only) to Ch. Srinivasa Rao who is my husband. I got married Ch. Srinivasa Rao on 06.05.2009. At the time of my marriage, I received cash from my father as Sreedhan and also I am doing farming at my village, I earned nearly 55,000/- per year and saved Rs.30,000 per year. My Sreedhan is Rs.3,00,000/- and also my savings of Rs.99,500/-. I given to my husband to deposit for my girl children future purpose.”

6. Similarly, the father of the assessee had given a sum of Rs.3,97,000/- and the explanation offered by the father of assessee namely, Shri Ch. Kondala Rao reads as under :

“.....With reference to the above, this is to confirm that I Ch. Kondala Rao, farmer. I have 4.3 acres of agricultural land and my daughter in law got 1 acre agriculture land at the time of marriage and my wife doing dairy farming. Me and my wife saving around 50,000/- per year from those agricultural lands. At the time of my son marriage dt.06.05.2009, we received gifts from our relatives and near friends Rs.2,00,000/-. I have only one Mr. Ch. Sinivasa Rao. He has two girl children, for the future of my grand daughters me and my wife savings, we given cash of Rs.3,97,000/- (Rupees Three lakhs ninety seven thousand only) to Ch. Srinivasa Rao, who is my son.....”

7. Despite the above explanation of both the wife of assessee and father of assessee, lower authorities have confirmed the additions in the hands of assessee.

8. I have heard the rival submissions and perused the material on record. On perusal of the records, in my view, it is quite possible for the wife to accumulate an amount of Rs.3,99,500/- from her savings and Sreedhan and therefore, the action on the part of the Assessing Officer to make addition in accordance with the law. In this regard, I may rely upon the decision of co-ordinate Bench of the Tribunal in the case of Uma Agarwal Vs. ITO in ITA 35/AGR/2021 dt.18.06.2021 reported in (2021) 127 Taxmann.com 735 wherein it was held that it can be presumed that in the context of the Indian society, the woman in general saves money for future eventuality i.e., to safeguard the interests of her children, family and others. Therefore, I have no hesitation to hold that sum of

Rs.3,99,500/- is available with the wife of the assessee which was given by her to the assessee. Further, the explanation of the father of the assessee that he had given an amount of Rs.3,97,000/- to the assessee with a view to safeguard the interests of his grand daughters. Thus, I feel that the assessee is able to explain the source of the cash deposits of Rs.3,99,500/- and Rs.3,97,000/-, totalling to Rs.7,96,500/-. However, on examination of the explanation given by the assessee with respect to the remaining amount and creditors, I found that the assessee has failed to prove the creditworthiness and the genuineness of other persons for the reasons mentioned in Para 5 of the assessment order and accordingly, I confirm the addition made with respect to the remaining three persons. Thus, the appeal of the assessee is partly allowed thereby granting relief of Rs.7,96,500/- to the assessee and the balance amount is confirmed.

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

Order pronounced in the Open Court on 29th August, 2022.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad, dated 29th August, 2022.

TYNN/sps

Copy to:

S.No	Addresses
1	Chidipothu Srinivasa Rao, D.No.4-54/A, Boppudivari Palem, Mundlamuru Mandalam, Edara, Prakasam District.
2	The Income Tax Officer, Ward - 1, Ongole.
3	Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order