

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' Bench, Hyderabad

Before Shri R.K. Panda, Accountant Member
AND
Shri K. Narasimha Chary, Judicial Member

ITA No.242/Hyd/2022		
Assessment Year: 2019-20		
Shri Suresh Chavan Hyderabad PAN:ADLPC7384D (Appellant)	Vs.	A.C.I.T. Central Circle 1(2) Hyderabad (Respondent)
Assessee by:	Shri P. Murali Mohan, CA	
Revenue by:	Shri M. Vijay Kumar, DR	
Date of hearing:	10/10/2022	
Date of pronouncement:	11/10/2022	

ORDER

Per R.K. Panda, A.M

This appeal filed by the assessee is directed against the order dated 8.3.2022 of the learned CIT (A)-11, Hyderabad relating to A.Y.2019-20.

2. Although a number of grounds have been raised by the assessee, however, the learned Counsel for the assessee confined his argument challenging the order of the learned CIT (A) in sustaining the addition of Rs.15,79,940/- made by the Assessing Officer.

3. Facts of the case, in brief, are that the assessee is an individual and had not filed his return of income for the impugned

A.Y. The Assessing Officer noted that during the course of search/ checking by the Flying Squad II, Sangareddy AC 33, Sangareddy Distt. Telangana cash of Rs.15,79,940 was found and seized on 3.12.2018 at the premises of the assessee at House No.5-1-16/2/B, Shanti Nagar, Sangareddy as the assessee could not explain the sources of the cash so seized. Further, the assessee had filed his last return of income for the A.Y 2011-12 only on 30.09.2011 admitting total income of Rs.1,11,99,874/-. Since the assessee had not filed his return of income for the impugned A.Y, the Assessing Officer issued notice u/s 142(1) of the I.T. Act calling for certain information .However, there was no response from the side of the assessee. In view of the above, the Assessing Officer completed the assessment u/s 144 of the I.T. Act, 1961 determining the total income of the assessee at Rs.15,70,940/- by recording the following:

“3i) In the statement given before the DDIT, Unit -1(3), Hyderabad, the assessee submitted that due to his deteriorating health condition he could not file the Returns of Income and the seized cash was his accumulated savings for medical emergencies. However, to avoid further litigations and to buy peace with the department, he accepted the amount seized of Rs.15,70,940/- as his additional income for the Asst. Year 2019-20. The assessee requested for non-initiation of any penalty proceedings for the same.

3ii) Though the assessee specifically mentioned about accumulation of the sum of Rs.15,70,940/- over the years to meet his medical emergencies, no documentary proof of any sort was provided by the assessee to substantiate his claim of accumulation of the seized cash over the years. In the Asst. Year 2011-12, the assessee filed the Income tax return admitting total income of Rs.1,11,99,874/-.

3ii) In the statement recorded before the DDIT (Inv), Unit 1(3), Hyderabad the assessee himself admitted that since the year 2014 his health condition was not well and used to stay at home without work. It was further stated that he used to receive rental income from a Commercial complex since the year 2014-15.

3iv) Though the assessee was in receipt of rental income according to his own version, no return of income were filed by him even from the A.Y 2012-13 onwards. The cash seized was on 3.12.2018 i.e.in the year 2018. There was a time lag of more than 6 years from the date of last return of income filed for A.Y 2011-12. Since, no returns of income are filed and no documentary evidence was furnished by

the assessee, the claim of the assessee that the seized cash was accumulation over the years cannot be accepted.

Hence, the cash seized of Rs.15,70,940/- at the premises of the assessee is treated as unexplained cash u/s 69A of the I.T. Act, 1961 and added to the total income.

Addition: 15,70,940/-.”

4. In appeal, the learned CIT (A) upheld the action of the Assessing Officer.

5. Aggrieved with such order of the learned CIT (A) the assessee is in appeal before the Tribunal.

7. The learned Counsel for the assessee submitted that the cash so found at the time of search/checking by the Flying Squad is partly out of the withdrawal of cash from the Bank by his spouse and partly out of own withdrawals from Bank on various dates which were kept for medical emergency. He submitted that the assessment order was passed u/s 144 of the I.T. Act and the learned CIT (A) upheld the action of the Assessing Officer on the ground that the assessee could not substantiate with evidence to the satisfaction of the Assessing Officer to support the claim of the assessee regarding the availability of such source. He submitted that given an opportunity, the assessee is in a position to explain the source of such cash seized of Rs.15,70,940/-.

8. The learned DR, on the other hand, heavily relied on the order of the Assessing Officer and the learned CIT (A).

9. We have heard the rival arguments made by both the sides, perused the orders of the AO and the learned CIT (A) and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us by both sides. We find the AO in the instant case made addition of Rs.15,70,940/-

u/s 69A of the I.T. Act on the ground that the assessee could not explain with evidence to his satisfaction regarding the cash of Rs.15,70,940/- found and seized on 3.12.2018 by the Flying Squad-2, Sangareddy Assembly Constituency, Sanga Reddy District, Telangana during the course of search/checking. We find the learned CIT (A) upheld the action of the Assessing Officer on the ground that the assessee could not substantiate with evidence to his satisfaction regarding the source of such cash found and seized. It is the submission of the learned Counsel for the assessee that the assessment was completed u/s 144 of the I.T. Act and given an opportunity, the assessee is in a position to substantiate the availability of such cash so found and seized which is out of the withdrawals from the Bank A/c of self and his spouse which were for medical emergency. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the Assessing Officer with a direction to grant one final opportunity to the assessee to substantiate his case by filing requisite details and decide the issue as per fact and law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

10. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 11th October, 2022.

Sd/- (K. NARASIMHA CHARY) JUDICIAL MEMBER	Sd/- (R.K. PANDA) ACCOUNTANT MEMBER
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Hyderabad, dated 11th October, 2022.

Vinodan/sps

Copy to:

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3	CIT (A)-11, Hyderabad
4	Pr. CIT-Central, Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order