

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. 317/Hyd/2022		
Assessment Year: 2015-16		
Smt. Sulochana Nimmatoori, Hyderabad PAN:ACSPN1664K (Appellant)	Vs.	A.C.I.T. Central Circle 2(4) Hyderabad (Respondent)
Assessee by:	Shri P. Murali Mohan, CA	
Revenue by:	Shri M. Vijay Kumar, DR	
Date of hearing:	13/10/2022	
Date of pronouncement:	13/10/2022	

ORDER

Per R.K. Panda, A.M

This appeal filed by the assessee is directed against the order dated 27.6.2022 of the learned CIT (A)-12 Hyderabad, relating to A.Y.2015-16.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the order of the learned CIT (A) in confirming the addition of Rs.14,49,000/- made by the Assessing Officer.

3. Facts of the case, in brief, are that the assessee is an individual and is one of the trustees of M/s. Aurora Educational Society & other group trusts. The assessee filed her return of

income on 19.8.2015 admitting total income of Rs.7,61,200/- after claiming Chapter VIA deduction of Rs.1,50,000/-. A search and seizure operation u/s 132 of the Act was conducted in the case of M/s. Aurora Educational Society and other groups on 23.03.2018 in which the assessee was also covered.

4. In response to the notice u/s 153A of the Act, dated 24.12.2018, the assessee filed her return of income on 2.4.2019 admitting total income at Rs.7,61,200/-. The Assessing Officer completed the assessment u/s 143(3) r.w.s. 153A determining the total income of the assessee at Rs.37,03,200/- in which he made various additions including the addition of Rs.14,49,000/- on account of non-disclosure of salary income which is the subject matter of this appeal. While doing so, the Assessing Officer noted that in the Bank A/c statement of ICICI Bank A/c No.037001502175 of the assessee, there are several credits into the bank a/c with narration " By Salary" totaling to Rs.14,49,000/-. However, the assessee has not admitted any salary income in her return of income. In absence of any reply given by the assessee to the query raised by the Assessing Officer, the Assessing Officer made addition of Rs.14,49,000/- to the total income of the assessee.

5. In appeal, the learned CIT (A) sustained the addition made by the Assessing Officer by observing as under:

"8.5 have carefully considered the submissions of the appellant, the order of the Assessing Officer, the evidence filed by the appellant's AR, as well as the comments of the Assessing Officer thereon. The AO found several credits in ICICI bank account No.2175 of the appellant with narration "By Salary" to the extent of Rs.14,49,000/-. The appellant has not admitted any Income from Salary in the ITR filed for AY 2015-16. The AO has sought an explanation from the assessee as to the sources for credits of Rs.14,49,000/-. The appellant has not submitted any explanation during assessment proceedings, therefore

in absence of supporting evidences, the AO treated it as unexplained income u/s.69A of the Act. The appellant is aggrieved and is in appeal.

8.6 During the course of appellate proceedings, the AR furnished written submissions wherein it was stated that the appellant has duly accounted the credits received by the appellant in its books of account for the relevant financial year and the Ld. AO erroneously treated the credits appearing in bank statement as part of salary receipts by merely mentioned in the bank account statement. The appellant has earned total income comprising of Rs.8,96,000/- as Income from House Property and Rs.16,27,699/- as Income from Business & Profession during the AY 2015-16. Since the amount was received by the appellant against the loan account for the property, therefore the addition of Rs.14,49,000/- is requested to be deleted.

8.7 I have considered the submissions of the AR and the remand report of the AO. The AO observed that there were credits of Rs.14,49,000/- in bank accounts of the appellant with narration "By Salary" during AY 2015-16 but no salary income was offered to tax. The appellant's contention that the credits in bank account are already considered as "Business Receipts" is not acceptable since the appellant could not furnish relevant books of account, ledger to show that the same was offered as business income. Merely because the appellant has offered business income, the salary credits does not automatically be taken as business income. One has to prove the same by leading evidence. The appellant has offered salary income in the earlier year i.e., A.Y 2014-15 as similar such credits. The appellant's second argument that the amount was received against loan account for the property is also unsubstantiated. Accordingly, the ground of appeal pertaining to this issue is DISMISSED.

9.0 In the result, the appeal of the appellant for the AY 2015-16 is PARTLY ALLOWED".

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

7. The learned Counsel for the assessee at the outset referring to the computation of total income, copy of which is placed at page 32 to 34 of the Paper Book, drew the attention of the Bench to the business income declared by the assessee at Rs.16,27,699/-. Referring to page No.34 of the Paper Book, the learned Counsel for the assessee drew the attention of the Bench to the ledger a/c of the Bank wherein the total credits in the Bank

A/c was 16,27,699/-. He submitted that the assessee inadvertently declared the salary income credited into the Bank A/c as business income and therefore, making addition of the same amount again amounts to double addition. He submitted that despite Bank A/c containing total credit of Rs.16,27,699/- which the assessee has offered as business income inadvertently including the salary income therein, therefore, the addition made by the Assessing Officer and sustained by the CIT (A) is not justified. In his alternate contention, he submitted that the matter may be restored to the file of the Assessing Officer to verify the details and pursuant to the same pass appropriate orders.

8. The learned DR, on the other hand, while supporting the orders of the Assessing Officer and the CIT (A) submitted that the assessee during the course of assessment proceedings did not file any details in response to the notice issued by the Assessing Officer for which he was constrained to make the addition. Even before the learned CIT (A), the assessee has made contradictory submission. Therefore, the addition made by the Assessing Officer and sustained by the learned CIT (A) should be upheld and the grounds raised by the assessee should be dismissed.

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.14,49,000/- to the total income of the assessee on the ground that although the Bank A/c of the assessee shows certain credits with narration "By Salary" totaling Rs.14,49,000/- however, the assessee has not disclosed any salary income. Further, the assessee did not

respond to the query raised by the Assessing Officer on this issue. We find the learned CIT (A) sustained the addition made by the Assessing Officer the reasons of which have already been reproduced in the preceding paragraphs. It is the submission of the learned Counsel for the assessee that the assessee has disclosed the entire bank credits for the year under consideration as her business income which includes the salary income of Rs.14,49,000/-. It is also his submission that given an opportunity, the assessee is in a position to substantiate that the assessee had in fact declared such salary income inadvertently under the head “business income” and addition of the same amounts to double addition. 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 more opportunity to the assessee to substantiate her case by leading evidence to his satisfaction. The Assessing Officer shall decide the issue as per fact and law after giving due opportunity of being heard to the assessee. We hold and direct accordingly.

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

Order pronounced in the Open Court at the time of hearing itself i.e. 13th October, 2022.

Sd/- (K. NARASIMHA CHARY) JUDICIAL MEMBER	Sd/- (R.K. PANDA) ACCOUNTANT MEMBER
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Hyderabad, dated 13th October, 2022.

Vinodan/sps

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6	Guard File

By Order