

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

Before Shri Rama Kanta Panda, Accountant Member

AND

Shri Laliet Kumar, Judicial Member

ITA No.1291/Hyd/2019		
Assessment Year: 2016-17		
Tumu Rajkumar C/o Flat No.301, 3 rd Floor Sri Laxmi Towers Road No.10 Banjara Hills Hyderabad-500 034 PAN : ACAPT4169M	Vs.	ACIT, Central Circle-1(1) Hyderabad
(Appellant)		(Respondent)
Assessee by:		Shri S.Venkateswarlu, Advocate
Revenue by:		Shri K.Madhusudan,CIT-DR
Date of hearing:		17.10.2022
Date of pronouncement:		17.10.2022

ORDER

Per Shri Rama Kanta Panda, A.M.

This appeal filed by the assessee is directed against the order dated 31.05.2019 of the Learned Commissioner of Income Tax (Appeals)-11, Hyderabad relating to AY 2016-17.

2. Grounds of appeal raised by the assessee are as under:-

1. *Ld.CIT(A) erred both in law and facts of the case*
2. *Ld.CIT(A) erred in confirming the addition of Rs.2,93,447/- made by the AO difference in car loan being the excess of Income over liability.*
3. *Ld.CIT(A) failed to appreciate that there is no real income accrued to the assessee in the impugned assessment year.*
4. *Ld.CIT(A) failed to appreciate that there will be change in Capital a/c to the extent of Rs.2,93,447/- rather than any income earned or accrued.*

3. This appeal was earlier dismissed by the Tribunal vide order dated 06.04.2021. Subsequently, the Tribunal vide MA.No.71/hyd/2021 order dated 23.09.2022 recalled its earlier order on the ground that the appeal was disposed of *ex-parte* on

06.04.2021 which falls within the pandemic period. Thus, this is a recalled matter.

4. Facts of the case, in brief, are that the assessee is an individual deriving income from salary, house property, business income and income from other sources. A search and seizure operation u/s. 132 of the Act was carried out in the group cases of Cyber city builders and developers Pvt.Ltd. on 02.08.2016 and the case of the assessee was also covered u/s. 132 of the I.T.Act. The assessee filed his return of income on 31.03.2017 declaring total income of Rs.26,82,580/-. The assessment was completed u/s. 143(3) of the Act on 20.12.2017 determining the total income of the assessee at Rs.1,74,08,107/- by making the following additions

	<i>Particulars</i>	<i>Rs.</i>
<i>Add:</i>	<i>Income admitted in the return filed u/s. 142(1)</i>	<i>26,82,580</i>
<i>Add:</i>	<i>Undisclosed investment in jewellery as discussed above</i>	<i>1,13,40,380</i>
<i>Add:</i>	<i>Unexplained money as discussed above</i>	<i>4,14,000</i>
<i>Add:</i>	<i>Undisclosed income being Excess over liabilities as discussed above</i>	<i>2,93,447</i>
<i>Add:</i>	<i>Unexplained cash deposits as discussed above</i>	<i>24,92,500</i>
<i>Add:</i>	<i>Agriculture income treated as income from other sources.</i>	<i>1,85,200</i>
	<i>Total Income assessed</i>	<i>1,74,08,107</i>

5. In appeal the Id.CIT(A) gave part relief to the assessee, wherein he sustained addition of Rs.2,93,447/- made by the AO and deleted the other additions.

6. Aggrieved with such order of the Ld.CIT(A), the assessee as well as revenue were in appeal before the Tribunal. The revenue had filed the appeal vide ITA No.1398 to 1402/Hyd/2019 and ITA

no.1555/Hyd/2019 for AY 2011-12 to 2016-17 and the assessee had filed the appeal for AY 2015-16 vide ITA No.1371/Hyd/2019. The Tribunal vide order dated 30.08.2022. decided all the appeals in a consolidated order and restored the issue to the file of the AO with a direction to *de novo* examine the issues.

7. The ld.Counsel for the assessee at the outset submitted that since the appeal filed by the revenue has been restored to the file of the AO for fresh adjudication. Therefore, he has no objection if the matter is restored to the file of the AO.

8. The ld. DR on the other hand, while supporting the order of the ld.CIT(A) fairly submitted that he has no objection if the matter is restored to the file of the AO for adjudication of the issue.

9. We have heard the rival arguments made by both the sides, perused the orders of the AO and ld.CIT(A) and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. We find the AO in the instant case is made various additions to the returned income of Rs.26,82,580/- and determined the total income at Rs1,74,08,107/-. We find the ld.CIT(A) while sustaining the addition of Rs.2,93,447/- deleted the various other additions and in further appeal filed by the revenue, the Tribunal in consolidated order dated 30.08.2022 vide ITA No.1398/Hyd/2019 to 1402/Hyd/2019 and ITA No.1555/Hyd/2019 for AY 2011-12 to 2016-17 filed by the revenue and ITA No.1371/Hyd/2019 for AY 2015-16 filed by the assessee restored the issue to the file of the AO. Since the appeal filed by the revenue challenging the order of the ld.CIT(A) deleting the major additions for AY 2016-17 has already been restored to the file of the AO by the Tribunal, therefore in all fairness, we deem it proper to restore the grounds

raised by the assessee to the file of the AO for deciding the issue afresh in the light of the direction of the Tribunal, while adjudicating the appeal filed by the revenue for the impugned assessment year. Needless to say, the AO shall give due opportunity of being heard to the assessee 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 purpose.

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

Order pronounced in the Open Court on 17th October, 2022.

Sd/- (LALIET KUMAR) JUDICIAL MEMBER	Sd/- (RAMA KANTA PANDA) ACCOUNTANT MEMBER
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Hyderabad, dated 17th October, 2022.

Thirumalesh/sps

Copy to:

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3	PCIT-11, Hyderabad
4	PCIT(Central), Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order