

**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. 324/Hyd/2022		
Assessment Year: 2015-16		
Shri Ramesh Babu Nimmatoori, Hyderabad PAN:ACSPN1659G (Appellant)	Vs.	ACIT, 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, the Counsel for the assessee confined his argument to the order of the learned CIT (A) in confirming the addition of Rs.19,57,881/- made by the Assessing Officer. Learned

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 his return of income on 19.8.2015 admitting total income of Rs.9,89,750/- 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 his return of income on 2.4.2019 admitting total income at Rs.9,89,750/-. The Assessing Officer completed the assessment u/s 143(3) r.w.s. 153A determining the total income of the assessee at Rs.48,71,250/- in which he made various additions including the addition of Rs.19,40,500/- on account of nondisclosure of salary income which is the subject matter of appeal. While doing so, the Assessing Officer noted that in the Bank A/c statement of ICICI Bank A/c No.630501502387 of the assessee, there are several credits into the bank a/c with narration " By Salary" totaling to Rs.19,40,500/-. However, the assessee has not admitted any salary income in his 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.19,40,500/- 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:

*"8.3. I have carefully considered the submissions of the appellant, the order of the Assessing Officer, as well as the comments of the Assessing Officer thereon. Briefly the facts are, the AO found several credits in ICICI bank account of the appellant with narration "By Salary" to the extent of Rs.19,40,500/- but the appellant has not admitted any Income from Salary in the ITR filed for AY 2015-16 and has sought an explanation from the assessee as to the sources for such credits. The appellant has not submitted any explanation during assessment proceedings, therefore in*

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

*8.4 During the appellate proceedings, the AR submitted that the appellant along with six co-owners has entered into an agreement of sale for the property situated at H.No.8-2-293/82/A/176/1, Road No.13, Jubilee Hills, Hyderabad with M/s. Aurora Educational Society for a total sale consideration of Rs.16,50,00,000/- on 15-06-2010. The appellant has received the amount of Rs.19,40,500/- from Aurora Educational Society during the current year towards part repayment of sale consideration as per agreement dated 15.06.2010. The amount of Rs.19,40,500/ was received towards "Amount received against the loan account for the property and deposited in the ICICI bank account. The AR further submitted 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. Bank passbook is not a part of Books of account of the appellant and cannot be taken as basis for treating it to be unexplained income or unexplained credits. Therefore, the AR requested to delete the addition of Rs.19,40,500/-.*

*8.5 I have carefully considered the submissions of the appellant. It is seen that the appellant has received Rs.19,40,500/- in ICICI bank account with narration "Salary" during the current year but no salary income was offered to tax. The appellant claimed that this amount of Rs.19,40,500/- was received by Aurora Educational Society against the sale consideration received towards the Agreement of Sale entered on 15.06.2010. The appellant has submitted copy of Agreement of confirmation of payment from Aurora Sale, ledger account of the appellant, Educational Society, and bank account statement to substantiate its claim. On perusal of the agreement of sale dated 15.06.2010, it is seen that the agreement is not registered document and is only a self-serving and internal document between the Aurora Educational Society and its trustee members. This agreement of sale document has no validity and cannot be verified independently as the parties involved in these documents are related parties i.e. Aurora Educational Society and its trustee members, therefore cannot be relied upon. Besides the property for which agreement of sale was made on 15-06-2010 has never been purchased by the society. Therefore, the appellant's argument that the amount was received against loan account for the property is unsubstantiated. The appellant has offered salary income in the earlier year i.e., AY 2014-15 of Rs.20,51,600 on similar such credits. There is no reason why the same should not be taken as salary in the current year. The onus is on the appellant to prove his case. Accordingly, the addition on account of unexplained credits of Rs.19,40,500/- u/s.69A is confirmed and this ground of the appeal is DISMISSED.*

*9.0 In the result, the appeal of the assessee for 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 33 to 33 of the Paper Book drew the attention of the Bench to the business income declared by the assessee at Rs.24,18,946/-. 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 24,18,946/-. 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. 24,18,946/- 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.19,40,500/- 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. 19,40,500/- 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 his business income which includes the salary income of Rs.19,40,500/-. 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 his case by leading evidence to his satisfaction. The Assessing Officer shall decide the issue as per fact and law after giving an 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 i.e. on 13<sup>th</sup> October, 2022.

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

*Vinodan/sps*

Copy to:

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5	DR, ITAT Hyderabad Benches
6	Guard File

*By Order*