

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

Before Shri R.K. Panda, Accountant Member
AND
Shri Laliet Kumar, Judicial Member

ITA Nos.322 & 323/Hyd/2022		
Assessment Years: 2013-14 & 2015-16		
Smt. Manjusha Nimmatoori Hyderabad PAN:ACSPN1666M (Appellant)	Vs.	ACIT Central Circle 2(4) Hyderabad (Respondent)
Assessee by:	Shri P. Murali Mohan Rao, CA	
Revenue by:	Shri K. Madhusudan, CIT(DR)	
Date of hearing:	19/10/2022	
Date of pronouncement:	19/10/2022	

ORDER

Per Laliet Kumar, J.M

The above appeals filed by the assessee are directed against the order dated 28.6.2022 of the learned CIT (A)-12, Hyderabad relating to A.Ys. 2013-14 & 2015-16 respectively. Since identical grounds of appeals are raised by the assessee in both these appeals, these were heard together and are being disposed by this common order.

ITA No.322/Hyd/2022 A.Y 2013-14

2. Although a number of grounds have been raised by the assessee in the above two appeals, however, these all relate to the order of the learned CIT (A) in confirming the addition of Rs.21,73,500/- 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.33,78,650/-. 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 27.07.2019 admitting total income at Rs.28,42,030/-. The Assessing Officer completed the assessment u/s 143(3) r.w.s. 153A determining the total income of the assessee at Rs.30,66,292/- in which he made various additions including the addition 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.630501509105 of the assessee, there are several credits into the bank a/c with narration "By Salary" totaling to Rs.21,73,500/-. 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.21,73,500/- 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:

"8.7 have carefully considered the submissions of the appellant. It is seen that the appellant has received Rs.21,73,500/- in ICICI bank account No.9105 with narration "Salary" during the current year. This amount of Rs.21,73,500/- was said to have been received from Aurora Educational Society against the sale consideration received for the Agreement of Sale entered on 15.06.2010. The appellant has submitted Copy of Agreement

of Sale, confirmation of payment from Aurora Educational Society to substantiate its claim. On perusal of the agreement of sale dated 15.06.2010, it is seen that the agreement is not a 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 this document are related parties i.e. Aurora Educational Society and its trustee members and therefore cannot be relied upon. Moreover, no evidence was filed by the appellant regarding completion of this transaction and consequently sale of property that was agreed to be sold to the society for Rs.16.5 crores never materialized. The unregistered and un-fructified agreement of sale between the trustees and the society is an internal arrangement which is an afterthought to somehow explain the "Salary" credits. No details of how much of the Rs.16.5 crores was paid by the society to the appellant was furnished. The onus is on the assessee to prove his case. The appellant has not filed any loan account ledger in the books of the society. Therefore, the appellant failed to provide reasons why this amount was claimed to be a loan, when the bank transactions reflect the same as "Salary". In view of the above, the addition on account of salary credits of Rs.21,73,500/- u/s.69A is confirmed and this ground of the appeal is DISMISSED".

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 27-30 of the Paper Book, drew the attention of the Bench to the business income declared by the assessee at Rs.32,76,550/-. Referring to page No.29 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 Rs.32,76,550/-. 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.32,76,550/- 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.21,73,500/- 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.21,73,500/- 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 her business income which includes the salary income of

Rs.21,73,500 /-. 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 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, appeals filed by the assessee are allowed for statistical purposes.

ITA No.323/Hyd/2022 – A.Y.2015-16

11. As facts of present appeal are similar to ITA No.322/Hyd/2022, therefore, respectfully following our direction in ITA No.322/Hyd/2022, we also restore this appeal to the file of the Assessing Officer with similar directions.

Order pronounced in the Open Court itself, i.e. on 19th October, 2022.

Sd/- (R.K. PANDA) ACCOUNTANT MEMBER	Sd/- (LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 19th October, 2022.

Vinodan/sps

Copy to:

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3	CIT (A)-12, Hyderabad
4	Pr. CIT-Central, Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order