

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. 414/Hyd/2022		
Assessment Year: 2013-14		
Shri Subrahmanyam Jagarlamudi, Hyderabad PAN: ACXPJ5454G (Appellant)	Vs.	Income Tax Officer Ward 11(1) Hyderabad (Respondent)
Assessee by:	Advocate Mohd.Fazal	
Revenue by:	Shri Naveen Kumar, DR	
Date of hearing:	20/12/2022	
Date of pronouncement:	20/12/2022	

ORDER

Per R.K. Panda, A.M

This appeal filed by the assessee is directed against the ex-parte order dated 28/06/2022 of the learned CIT (A)-10, Hyderabad relating to A.Y.2013-14.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the ex-parte order of the learned CIT (A) in dismissing the appeal filed by the assessee and thereby confirming the addition of Rs.1,48,15,901/- made by the Assessing Officer as unexplained income.

3. Facts of the case, in brief, are that the assessee is an individual and engaged in the business of real estate and commission agent. He filed his return of income on 25.03.2014

declaring total income at Rs3,01,702/- on the gross receipts of Rs.17,03,442/- from contract works. In this case information was obtained that the assessee has made cash deposit of Rs.1,48,15,901/- and cheque deposit of Rs.73,14,440/- in the Bank A/c maintained with Citizen Cooperative Bank, Hyderabad during the financial year 2012-13. Accordingly, the case was reopened after recording reasons and notice u/s 148 dated 28.3.2019 was issued and served on the assessee. Subsequently, notice u/s 142(1) dated 27.7.2019 was also issued. However, there was no response from the side of the assessee to the statutory notices issued from time to time. Since there was no response from the side of the assessee, the Assessing Officer completed the assessment u/s 144 of the I.T. Act treating the cash deposit of Rs.1,48,15,901/- as unexplained income of the assessee. Accordingly, the Assessing Officer determined the total income of the assessee at Rs.1,52,50,420/- and agricultural income of Rs.65,000/-.

4. Since the assessee did not appear before the learned CIT (A), the learned CIT (A) in the ex-parte order passed by him 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.

6. The learned Counsel for the assessee at the outset submitted that despite adjournment letters filed before the learned CIT (A) through mail, the learned CIT (A), ignoring the same passed the ex-parte order. Further, the Assessing Officer also in the instant case has passed order u/s 144 of the I.T. Act on the ground that there was no response from the side of the

assessee. He submitted that, given an opportunity, the assessee is in a position to substantiate the source of such cash deposits in the Bank A/c. He accordingly submitted that in the interest of justice, the matter should be restored to the file of the Assessing Officer with a direction to decide the issue afresh after giving due opportunity of being heard to the assessee.

7. The learned DR, on the other hand, referring to the assessment order as well as the CIT (A) order submitted that the conduct of the assessee shows volumes. Since the assessee has not explained either before the Assessing Officer or before the learned CIT (A) by filing cogent evidence regarding the cash deposit in the Bank A/c, therefore, the same should be upheld and the grounds raised by the assessee should be dismissed.

8. We have heard the rival arguments made by both the sides and perused the orders of the AO and the learned CIT (A). It is an admitted fact that the case of the assessee was reopened on account of cash deposit of Rs.1,48,15,901/- in the Bank A/c maintained with Citizens Cooperative Bank, Hyderabad during the financial year 2012-13 relating to A.Y 2013-14. It is also an admitted fact that the assessee neither appeared before the Assessing Officer in response to the statutory notices issued nor appeared before the learned CIT (A) despite 3 opportunities granted for which both the lower authorities have passed ex-parte order. It is the submission of the learned Counsel for the assessee that the assessee had filed adjournment application before the learned CIT (A) through mail and despite the same the learned CIT (A) proceeded to pass ex-parte order without affording sufficient opportunities. It is also his submission that the Assessing Officer also passed ex-parte order and given an opportunity, the assessee

is in a position to substantiate with evidence to the satisfaction of the Assessing Officer regarding the nature and source of the cash deposits in the Bank A/c maintained with Citizens Cooperative Bank. 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 last opportunity to the assessee to substantiate his case with evidence to his satisfaction. Needless to say 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. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the Open Court at the time of hearing itself i.e. on 20.12.2022.

Sd/- (K. NARASIMHA CHARY) JUDICIAL MEMBER	Sd/- (R.K. PANDA) ACCOUNTANT MEMBER
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Hyderabad, dated 20th December, 2022

Vinodan/sps

Copy to:

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2	Income Tax Officer Ward 11(1) Hyderabad
3	CIT (A)-10 ,Hyderabad
4	CIT-(IT & TP) Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order