

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

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

ITA No.958/Hyd/2019		
Assessment Year: 2015-16		
Smt. Vulloju Sujatha Siddipet PAN:AUHPV5679 (Appellant)	Vs.	Income Tax Officer Ward-1 Siddipet (Respondent)
Assessee by:	Shri T. Chaitanya Kumar, Adv.	
Revenue by:	Shri KPRR Murthy, DR	
Date of hearing:	10/01/2023	
Date of pronouncement:	11/01/2023	

**ORDER**

**Per R.K. Panda, A.M**

This appeal filed by the assessee is directed against the order dated 25.01.2019 of the learned CIT (A)-7, Hyderabad relating to A.Y.2015-16.

2. There is a delay of 61 days in filing of this appeal for which the assessee has filed a condonation application along with an affidavit. After considering the contents of the condonation application filed along with the affidavit and after hearing both the sides, the delay in filing of this appeal is condoned.

3. Facts of the case, in brief, are that the assessee is an individual and is engaged in jewellery business. She filed her

revised return of income on 28.12.2015 declaring total income at Rs.3,07,850/- after claiming deduction u/s 80C and 80DDB. The case was selected for scrutiny. The Assessing Officer issued statutory notices u/s 143(2) and 142(1) to which the AR of the assessee appeared before the Assessing Officer and filed requisite details as called for from time to time.

4. During the course of assessment proceedings, the Assessing Officer asked the assessee to explain as to why the cash deposit in the Bank A/c amounting to Rs.81,95,077/- should not be treated as unexplained money u/s 69A of the Act. The A.R of the assessee submitted a letter dated 20.12.2017 along with the summary of cash transactions made during the year 2014-15 by stating as under which has been reproduced in the body of the assessment order:

*“My Client Smt Vulloju Sujatha during the financial year 2014-15 has total cash deposit of Rs.82,10,317/-. Out of which my assessee has declared Rs.44,28,000/- as sales during the year and estimated profit u/s 44AD for an amount of Rs.3,70,000/-. Out of balance deposit of Rs.37,82,317/-, my client has deposited Rs.6,24,500/-, the amount received from her son Vulloju Sravan and balance deposit of Rs.31,47,817/- is out of amounts withdrawals (drawings from Bank) on various dates. Details of withdrawals with dates were annexed hereto”.*

5. The Assessing Officer asked the assessee to submit the documentary evidence in support of the sales amount and the amount received from her son. However, there was no proper compliance by the assessee to the query raised by the Assessing Officer. The Assessing Officer, therefore, in absence of any satisfactory explanation given by the assessee and in absence of establishing the business activity and non-submission of the purchase/sales bills/invoices etc., made addition of Rs.83,19,059/- as unexplained money u/s 69A of the Act.

5.1 The Assessing Officer similarly made addition in respect of the deduction claimed of Rs.47,152/- u/s 80C and Rs.30,000/- u/s 80DDB totaling to Rs.77,152/- for want of evidence. The Assessing Officer accordingly determined the total income of the assessee at Rs.87,04,060/-.

6. In appeal the learned CIT (A) sustained the addition of Rs.83,19,058/- by observing as under:

*"4.2 I have considered the submissions of the appellant and The findings of the Assessing Officer in the assessment order carefully. Assessing Officer made an addition of Rs.83,19,058/- on the ground that the appellant did not substantiate the source of the cash deposits made in the savings bank account maintained in ICICI Bank, Siddipet inspite of show-cause letter given by the Assessing Officer vide letter dated 22-12- 2017. During the course of appellate proceedings, the contention of the appellant was that the source of the deposits in the bank account was out of trading in gold and silver bars. However, no substantiation was made by the AR of the appellant during the course of appellate proceedings by filing the copies of the sales, purchase invoices in support of the claim. Even before Assessing Officer, the appellant did not substantiate the claim of sales and purchases. Firstly, before the Assessing Officer, the AR of the appellant claimed that the assessee had a fund of Rs.25,00,000/- from the past accumulation/savings. Even this claim made before Assessing Officer was not substantiated during the course of appellate proceedings by producing documentary evidence in support of claim of past savings. The other contention of the AR of the appellant before Assessing Officer was that the balance deposit of Rs.31,47,817/- is out of the amount withdrawals from bank on various dates and an amount of Rs.6,24,500/- was received from a person Sri Vulloju Sravan. This claim of the appellant was not accepted by the Assessing Officer. I have also seen various credits made in the bank account. It is seen that the appellant after depositing huge amounts in the bank account had given various amounts to different persons on different dates. It is seen from the withdrawals that the quantum of the withdrawal on each date was wholesome amount. When questioned on the nature of the withdrawals in the bank account, the AR of the appellant kept silent before me. Therefore, it cannot be established that the withdrawals showing in different names pertain to various purchases. Also, the contention of the AR of the appellant that the deposits/withdrawals made in the bank account related to purchase and sales is not established. No documentary evidence was either filed before Assessing Officer or before the undersigned in support of claim of purchases and sales, the loans from Sri V.Sravan, past savings. Moreover, while filing reply to the Assessing Officer on 8-12-2017, the appellant claimed that part of the withdrawals were related to*

*purchase of the residential flat, for purchase of the air-conditioner and for developing modular kitchen etc. Therefore, it is inferred that part of the withdrawals made in the bank account were utilized for purchase of the residential flat and also for purchase of the air-conditioner and for developing modular kitchen etc. The last contention of the appellant was that the source for deposit of Rs.44,28,000/- was out of sales and declaration of profit u/s.44AD at Rs.3,70,000/- and same was not acceptable to the Assessing Officer for want of evidence in support of claim of purchases and sales like invoices etc. This claim of the appellant is also not acceptable to the undersigned for want of basic evidences like indulgence of the appellant in the purchase and sales. In view of the above facts and circumstances of the case, I confirm the addition made by the Assessing Officer. This ground of appeal is dismissed”.*

7. So far as the disallowance of Rs.77,697/-is concerned, the learned CIT (A) also sustained the addition in absence of any details filed by her evidencing the investment claimed u/s 80C & 80DDB.

8. Aggrieved with such order of the learned CIT (A) the assessee is in appeal before the Tribunal by raising the following grounds:

*“1. The order of the Commissioner of Income-Tax (Appeals) is erroneous both on facts and in law to the extent it is prejudicial to the assessee.*

*2. The learned Commissioner of Income-Tax (Appeals) erred in confirming the action of the Assessing Officer in treating an amount of Rs 83,19,058/- as income of the appellant u/s 69A of the I.T Act.*

*3. The learned Commissioner of Income-Tax (Appeals) erred in confirming the action of the Assessing Officer in not allowing deductions u/s 80C an amount of Rs 77,152/- of the I.T act.*

*4. The learned Commissioner of Income-Tax (Appeals) erred in rejecting the appellant contention an amount of deposits made into the bank account as a turnover of the appellant.*

*5. The learned Commissioner of Income-Tax (Appeals) ought to have considered the fact that the amounts are re-deposited by the appellant.*

*6. The Commissioner of Income-Tax (Appeals) erred in confirming the action of the Assessing Officer in determining*

*the total income at Rs 87,04,060/- as against the income admitted of Rs. 3,07,850/-.*

*7. The learned Commissioner of Income-Tax (Appeals) erred in confirming the action of the assessing officer in charging of interest of an amount of Rs 77,967/- u/s 234A and an amount of Rs 8,57,637/- u/s 234B of the I.T Act.*

*8. Any other ground that may be urged at the time of hearing”.*

9. The learned Counsel for the assessee strongly challenged the order of the learned CIT (A) in confirming the addition made by the Assessing Officer. He submitted that the assessee is not maintaining any books of account and has declared profit u/s 44AD of the I.T. Act. The deposit of cash in the Bank A/c was explained to be out of the cash sales of Rs.44,28,000/-, withdrawals of Rs.31,47,817/- from the Bank A/c and an amount of Rs.6,24,500/- being the amount received from the son of the assessee. Therefore, the Assessing Officer was not justified in rejecting the explanation given by the assessee and the learned CIT (A) was also equally unjustified in sustaining the addition made by the Assessing Officer.

10. In his alternate contention, he submitted that since the turnover declared by the assessee on which the profit declared u/s 44AD has been admitted/accepted, therefore, the cash deposit to that extent should have been accepted. So far as the disallowance of Rs.77,152/- being denial of deduction u/s 80C at Rs.47,152/- and denial of deduction u/s 80DDB at Rs.30,000/- is concerned, he submitted that given an opportunity, the assessee is in a position to substantiate the same with evidence to the satisfaction of the Assessing Officer. He accordingly submitted that the appeal filed by the assessee should be allowed.

11. The learned DR, on the other hand, strongly supported the order of the Assessing Officer and the learned CIT (A). He submitted that despite sufficient opportunities granted by the Assessing Officer as well as the learned CIT (A), the assessee failed to substantiate the source of such cash deposit made in the Bank A/c. The submission of the assessee that the deposit is out of sale proceeds, previous withdrawals from the Bank A/c and the amount received from the son of the assessee cannot be accepted in absence of any bills/vouchers for purchase and sales. Similarly, there is no confirmation from the son of the assessee and his creditworthiness to substantiate the huge cash of Rs.6,24,500/- remained unexplained. So far as the deduction claimed u/s 80C & 80DDB is concerned, he submitted that both the lower authorities were correct in making the disallowance since the assessee failed to produce any evidence to that effect. Even before the Tribunal also the assessee has not filed any details to substantiate the deduction so claimed u/s 80C & 80DDB. Therefore, the learned CIT (A) was fully justified in sustaining the order of the Assessing Officer on a/c of deduction claimed u/s 80C & 80DDB.

12. 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.83,19,058/- being unexplained cash deposit u/s 69A of the I.T. Act and made addition of Rs.77,152/- being the deduction claimed by the assessee u/s 80C & 80DDB for want of evidence. We find the learned CIT (A) sustained the addition of Rs.83,19,058/- made by the Assessing Officer, the reasons of which have already been

reproduced in the preceding paragraph. Similarly, she also sustained the disallowance of Rs.77,697/- on the ground that the assessee failed to file evidence to substantiate the claim of deduction u/s 80C & 80DDB of the I.T. Act.

13. So far as the addition of Rs.83,19,058/- u/s 69A is concerned, we find the Assessing Officer made the addition on the ground that the assessee failed to substantiate with evidence to his satisfaction regarding the source of such cash deposit by producing relevant bills/vouchers of gold business which has been upheld by the learned CIT (A). It is an admitted fact that the assessee is not maintaining any books of account and has opted for estimation of profit u/s 44AD on a turnover of Rs.44,28,000/-. Therefore, we are of the considered opinion that at least to this extent the source of deposit in the Bank A/c should have been accepted. Since the Assessing Officer has accepted the profit declared by the assessee u/s 44AD, therefore, the source of cash deposit to the extent of turnover at Rs.44,28,000/- in the Bank A/c is accepted as explained. However, the balance amount of Rs.38,91,058/- is sustained in absence of any proper explanation given by the assessee to explain the source of such cash deposit. The explanation of the learned Counsel for the assessee that part of the amount is from the previous withdrawals from the Bank cannot be accepted. It is also not understood as to why the assessee who is not maintaining any books of account, shall withdraw the money from the Bank, keep it with herself and then again deposit a part of the same in the Bank A/c. Similarly, the amount of Rs.6,24,500/- being the amount received from the son of the assessee cannot be accepted without any evidence and explanation/confirmation from the son. Under these circumstances, we direct the Assessing Officer to delete the

amount of Rs.44,28,000/- out of the addition of Rs.83,19,058/- and the balance amount is sustained. The grounds raised by the assessee on this issue are partly allowed.

14. So far as the disallowance of Rs.77,152/- on a/c of denial of deduction at Rs.47,152/- u/s 80C and Rs.30,000/- u/s 80DDDB is concerned, undisputedly, the assessee did not file any evidence either before the Assessing Officer or before the learned CIT (A) or even before us for such claim. Under these circumstances, the disallowance of Rs.77,152/- made by the Assessing Officer and sustained by the learned CIT (A) is confirmed and the grounds raised by the assessee on these issues are dismissed.

15. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the Open Court on 11<sup>th</sup> January, 2023.

<b>Sd/-</b> <b>(LALIET KUMAR)</b> <b>JUDICIAL MEMBER</b>	<b>Sd/-</b> <b>(R.K. PANDA)</b> <b>ACCOUNTANT MEMBER</b>
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Hyderabad, dated 11<sup>th</sup> January, 2023.

*Vinodan/sps*

Copy to:

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3	CIT (A)-7, Hyderabad
4	Pr. CIT-7, Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

*By Order*