

**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.141 & 142/Hyd/2022		
Assessment Years: 2013-14 & 2014-15		
Shri Anjeneya Ravi Varma Prasad Kanthate, Hyderabad PAN:AOC PK6670E (Appellant)	Vs.	A.C.I.T Circle 1(4) Hyderabad (Respondent)
Assessee by:	Shri Mithilesh Sai, CA	
Revenue by:	Shri Kumar Aditya, DR	
Date of hearing:	08/02/2023	
Date of pronouncement:	13/02/2023	

**ORDER**

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

The above two appeals filed by the assessee are directed against separate the order dated 28.02.2022 of the learned CIT (A)-11, Hyderabad relating to A.Ys. 2013-14 & 2014-15 respectively. Since identical grounds have been taken by the assessee in both the appeals, therefore, for the sake of convenience, these were heard together and are being disposed of by this common order.

2. First we take up ITA No.141/Hyd/2022 for the A.Y 2013-14.

3. Facts of the case, in brief, are that the assessee is an individual and working as a Professor in M/s. MNR Dental College and Hospital, Sangareddy and is also the Managing Partner in M/s. Vardhaman Property Developers, Hyderabad. The assessee in this case was intercepted by the Inspector of Police, Ramagiri Circle, Anantapur, Near Kona Cross, NH-44, Hyderabad-Bangalore Road near C.K. Palli Village at around 6.30pm on 15.02.2019 with a cash of Rs.1,27,00,000/-. Since the assessee could not give any satisfactory explanation with regard to the source of the cash found in his possession, the Inspector of Police, Ramagiri Circle, Anantapur seized the said cash of Rs.1,27,00,000/- and took possession of the same. Thereafter, the information of seizure was forwarded by the Inspector of Police, Ramagiri Circle, Anantapur to the O/o the Asstt. Director of Income Tax (Inv.), Unit-IV(4), Tirupati. Subsequently, a warrant of Authorisation was issued and the cash was seized on 21.02.2019. The assessee was summoned u/s 131 and his statement was recorded wherein he stated that he had entered into an agreement on 1.9.2018 with Sri Shabeer Ahmed of Bengaluru for purchase of Ac 7.53 cents of agricultural land situated at Chennekothapalli Village, Anantapur District for a consideration of Rs.1.60 crores. Out of this, he had already paid Rs.38,00,000/- to Shri Shabeer Ahmed by way of Andhra Bank Cheque on 1.10.2018 and agreed to pay the balance amount at the time of registration on 1.1.2019 or at an earlier date. However, due to shortage of funds, he collected amounts from his relatives, friends and also from the parties of M/s. Vardhaman Property Developers and was carrying the cash of Rs.1.27 crores to show to the land owners and wanted to deposit the cash in Bank and later transfer it to the land owners, but the same was seized by the Police on 15.2.2019. Since the assessee had not filed the return of income and the case

was transferred from Income Tax Officer Ward 13(3) to the Dy. CIT, Central Circle 1(4), Hyderabad, a notice u/s 153A was issued to the assessee. The assessee in response to the same did not file any return. The assessee also did not respond to the statutory notices issued by the Assessing Officer. In view of the above, the Assessing Officer, on the basis of the details as per Form No.26AS for the A.Y under consideration, made addition of Rs.17,66,448/- in the order passed u/s 153A r.w.s. 144 of the I.T. Act the details of which are as under:

S.No	TAN Name	Section which received	Income reflected in Form 26AS
1	MNR Educational Trust	192A	11,18,308
2	Hyderabad Race Club	194BB	1,27,200
3	ECHS Station HQ Secunderabad	194J	5,20,940
	Total		17,66,448

3.1 Since the assessee did not appear before the learned CIT (A), the learned CIT (A) in the ex-parte order passed by him sustained the addition made by the Assessing Officer.

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

*“1. The Hon'ble CIT(A) has erred in law and on facts of the case by disallowing the appeal and confirming the order of Ld. AO which is bad in law and against the principals of equity and natural justice.*

*2 The Hon'ble CIT(A) and the Ld. AO has erred in law and on facts of the case by forming an invalid conclusion of assessment proceedings, without conducting an in-depth examination of facts submitted by the Appellant during the course of assessment proceedings.*

*3 The Hon'ble CIT(A) and the Ld. AO has erred in law and on facts of the case by failing to provide any personal opportunity of being heard to the Appellant when the Covid-19 pandemic situations are at peak in India and the Appellant himself was suffering with Covid-19.*

4. *The Hon'ble CIT(A) and the Ld. AO has erred in law and on facts of the case by finalizing the assessment not following the principles of equity and natural justice, humanitarian grounds and government directions on extension of assessment timelines during pandemic and lockdown situations.*

5. *The Hon'ble CIT(A) has erred in law and on facts of the case in not considering the Return of Income filed by the Appellant u/s 153A of Income-tax Act, 1961 on 20 April 2021 and passed an erroneous order stating that the Appellant has not filed the return of income.*

6 *The Hon'ble CIT(A) has erred in law and on facts of the case has by upholding the erroneous adjustment proposed by the Ld. AO as the Ld. AO erred in considering the income from Form 26ASS exactly twice the income reflected in Form 26AS. The summary of the same is stated here in the below table for your quick reference.*

TAN Name	Section which received	Income reflected in Form 26AS	Income assessed by learned Assessing Officer (double the amount as reflected in 26AS)	Erroneous assessment of excess income
		A	B	B-A
MNR Educational Trust	192A	5,59,154	11,18,308	5,59,154
Hyderabad Race Club	194BB	63,600	1,27,200	63,600
ECHS Station HQ Secunderabad	194J	2,60,470	5,20,940	2,60,470
		8,83,224	17,66,448	8,83,224

7. *The Hon'ble CIT(A) and the Ld. AO has erred in law and on facts of the case by not appreciating that there are several judicial pronouncements supporting that additions cannot be made merely by relying on information available in TDS Certificate i.e., Form 26AS.*

8 *The Hon'ble CIT(A) and the Ld. AO has erred in law and on facts of the case by upholding the actions of the Ld. AO in considering the complete income reflecting in Form - 26AS as income of the Appellant and not allowing the expenses incurred for Hospital maintenance, Administration expenses, Family maintenance etc., to earn such income.*

9. *The Hon'ble CIT(A) and the Ld. AO has erred in levying interest erroneously u/s 234A, 234B and 234C.*

10 *The CIT(A) and the Ld. AO has erred in initiating penalty proceedings u/s 271(1)(c).*

*The assessee craves leave to submit further factual and legal arguments during the proceedings before your Honours. In view of the above, it is humbly prayed before your Honours to issue necessary directions in this regard to the Hon'ble CIT(A)."*

5. The learned Counsel for the assessee at the outset submitted that due to prevailing COVID pandemic, which was at its peak at that time, the assessee could not appear before the Assessing Officer. Further, the learned CIT (A) has not given proper opportunity of hearing to the assessee. Therefore, in the interest of justice, the assessee should be given an opportunity to substantiate his case. The learned Counsel also filed an application requesting admission of additional evidences to support his case. Finally, he submitted that in the interest of justice, the matter should be restored to the file of the Assessing Officer for fresh adjudication.

6. The learned DR, on the other hand, heavily opposed the arguments advanced by the learned Counsel for the assessee. He submitted that although the pandemic was at its peak when the Assessing Officer completed the assessment, however, when the appeal was fixed for hearing before the learned CIT (A), there was no pandemic and the sequence of events narrated by the learned CIT (A) at page 6 of his order shows the persistent non-compliance of the assessee to the statutory notices issued. Therefore, no further opportunity should be granted to the assessee. The learned DR submitted that the learned CIT (A) has also decided the issue on merit on the basis of material available on record. Therefore, the same should be upheld and the grounds raised by the assessee should be dismissed.

7. 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 completed the assessment u/s 153A r.w.s. 144 determining the total income of the assessee at Rs.17,66,448/- on the basis of items appearing in Form No.26AS on the ground that despite opportunities granted, the assessee neither filed return of income in response to the notice u/s 153A nor complied to the statutory notice issued u/s 142(1). We find the learned CIT (A) upheld the addition made by the Assessing Officer on the ground that the assessee did not comply to the statutory notices issued by his office. It is the submission of the learned Counsel for the assessee that before the Assessing Officer, the assessee could not appear due to prevailing pandemic which was at its peak during that time. Further, the learned CIT (A) also did not give adequate opportunity of being heard to the assessee and sustained the addition made by the Assessing Officer. It is his submission that given an opportunity, the assessee is in a position to substantiate his case by producing necessary evidence to the satisfaction of the Revenue authorities. 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 by filing necessary details/evidences and decide the issue as per fact and law. The assessee is also hereby directed to appear before the Assessing Officer without seeking any adjournment under any pretext failing which the Assessing Officer is at liberty to pass appropriate order as per law. Further, considering the non-compliance to the statutory notices issued by the Assessing Officer as well as the

learned CIT (A) by the assessee, we impose a cost of Rs.5,000/- which shall be paid to the PM's relief fund. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

**ITA No.142/Hyd/2022 – A.Y 2014-15**

8. Identical grounds have been raised by the assessee in the instant case challenging the order of the learned CIT (A) in sustaining the addition of Rs.21,96,716/- made by the Assessing Officer on the basis of Form No.26AS. Since the grounds raised in the instant appeal are identical to the grounds of appeal in ITA No.141/Hyd/2022 for the A.Y 2013-14, therefore, following similar reasoning the grounds raised by the assessee are allowed for statistical purposes.

9. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the Open Court on 13<sup>th</sup> February, 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 13<sup>th</sup> February, 2023.

***Vinodan/sps***

Copy to:

S.No	Addresses
1	Shri Anjaneya Ravi Varma Prasad Kanthate, 10/A Sarala Mansion, SR Nagar X Roads, Vengal Rao Nagar, Hyderabad, Telangana
2	ACIT Circle 1(4) Hyderabad
3	CIT (A)-11 ,Hyderabad
4	Pr. CIT-Central, Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

*By Order*