

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad**

**Before Shri Rama Kanta Panda, Accountant Member
AND
Shri Laliet Kumar, Judicial Member**

ITA.No.576/Hyd/2022		
Assessment Year: 2019-20		
Inturi Praveen Reddy, Hyderabad. PAN : AAJPI1366G (Appellant)	Vs.	Asst. Commissioner of Income Tax, Central Circle 1(2), Hyderabad. (Respondent)
Assessee by:		Shri A.V. Raghuram
Revenue by:		Shri Jeevan Lal Lavidia
Date of hearing:		08.02.2023
Date of pronouncement:		09.02.2023

ORDER

PER LALIET KUMAR, J.M.

This appeal is filed by the assessee, feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals) – 11, Hyderabad on the following raised grounds :

“1. The Appellant has filed appeal before the Hon'ble Tribunal by raising grounds of appeal on the merit of addition of Rs.7,19,300 sustained by the Id. CIT(A). It is the case of the Appellant through out that the cash of Rs.7,19,300/- found from premises at plot no.130, Road No.15, Prashasan Nagar, Jubilee Hills, Hyderabad, belonged to three family members including Appellant. However, the entire addition of Rs.7,19,300/- is made in the hands of the Appellant. When the facts emanating from the search and seizure proceedings indicated that the cash belonged to three of the family members including the Appellant, the entire addition of Rs.7,19,300/- made in the hands of the Appellant cannot be sustained.

2. The additional ground raised by the assessee reads as under :

“On the facts and in the circumstances of the case, the addition of cash of Rs.7,19,300/- found entirely in the hands of the Appellant is erroneous and unsustainable on facts and in law.”

3. The brief facts of the case are that the assessee is an individual dealing with infrastructure related projects and contracts, filed the original return of income for the Asst. Year 2019-20 on 31/07/2019 u/s.139(1) of the Act admitting total income of Rs.28,21,640/-. A Search and Seizure operation was carried out on 27.09.2018 in the case of assessee. During the course of the search proceedings in the residence of the assessee, a cash of Rs. 7,19,300/- was found out of which an amount of Rs. 4,00,000/- was seized by the Investigation Wing. Being the year of Search, the return was selected for scrutiny and notice u/s 143(2) of the I.T. Act was issued on 29/01/2020 which was duly served on the assessee. Further, Notices u/s.142(1) of the Act dt.29/09/2020 & 27/11/2020 were issued. On verification of the reply submitted by the assessee, the assessment was completed by the Assessing Officer u/s 143(3) by making addition of Rs.7,19,300/- being cash found during the course of Search and thereby assessed the income of assessee at Rs.35,40,940/-.

4. Feeling aggrieved by the order passed by the assessing officer, assessee filed appeal before the Ld. CIT(A) who dismissed the appeal of assessee on account of non-prosecution and on merits.

5. Before us, ld.AR submitted that the learned lower authorities have decided the issue without considering the explanation offered by the assessee and that assessee failed to appear due to unavoidable circumstances. Ld.AR further submitted that as the assessee has sufficient cause from putting in appearance before the ld.CIT(A), matter may kindly be remitted back to the authorities below for afresh adjudication.

6. Per contra, the ld.DR has raised objection for remanding the matter back to the file of lower authorities.

7. We have heard the rival contentions of both the parties and perused the material available on record and also the order passed by the lower authorities. On perusal of the impugned order passed by ld.CIT(A), we found that ld.CIT(A) passed an exparte order confirming the action of the Assessing Officer, as the assessee failed to appear despite granting of sufficient opportunities. In para 6.1. of the ld.CIT(A)'s order, clearly mentioned the details of various opportunities granted to the assessee. On perusal of the order of ld.CIT(A) on merits, we found that the ld.CIT(A) has failed to consider the explanation given by the assessee that the cash was drawn from different bank accounts of different family members and the dates of withdrawals were between the dates 16.07.2018 to 24.09.2018 and the date of search operation is 28.10.2018 and etc. As the explanation of the assessee has not been considered by the ld.CIT(A) and the order of Assessing Officer had been confirmed without appreciating the record, we deem it appropriate to remand back the matter to the file of ld.CIT(A) with a direction to consider the explanation offered by the assessee and the documents placed on record before us after affording sufficient opportunities of hearing to the assessee in accordance with the law.

8. The assessee shall be at liberty to file documents, if any, as required for proving his case and the Id.CIT(A) shall consider the evidences, if any, filed by the assessee. Needless to say the Id.CIT(A) shall examine those documents / evidence filed by the assessee and also the other documents available on record. After considering the documents filed by the assessee and the submissions made by the assessee, the Id.CIT(A) shall pass a detailed speaking order dealing with the contentions of the assessee. We have not adjudicated the other grounds on merits as we are setting aside the orders passed by the lower authorities to the file of Id.CIT(A) for fresh adjudication. The assessee is directed to appear before the Id.CIT(A) and cooperate in early hearing of the appeal.

9. Further, the appeal is remanded back with the above directions subject to costs of Rs.2,000/- (Rupees Two Thousand only) in favour of Prime Minister National Relief Fund which shall be payable within one month or from the date of receipt of this order or whichever is earlier. Thus, the grounds of the assessee are allowed for statistical purposes.

10. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the Open Court on 9th February, 2023.

Sd/-

Sd/-

(RAMA KANTA PANDA) ACCOUNTANT MEMBER	(LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 9th February, 2023

TYNN/sps

Copy to:

S.No	Addresses
1	Inturi Praveen Reddy, Plot No.130, Road No.15, Prashsan Nagar, Jubleehilss, Hyderabad.
2	The Asst. Commissioner of Income Tax, Central Circle – 1(2), Hyderabad.
3	CIT(Appeals) -11, Hyderabad.
4	PCIT (Central), Hyderabad.
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order