

**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.650/Hyd/2022		
Assessment Year: 2019-20		
Shri Ramachandra Murthy Badarla, Secunderabad PAN:BPFPB2851B	Vs.	Dy. C. I.T. Central Circle 3(3) Hyderabad
(Appellant)		(Respondent)
Assessee by:	Shri Pawan Kumar Chakrapani	
Revenue by:	Shri Kumar Aditya, DR	
Date of hearing:	22/02/2023	
Date of pronouncement:	22/02/2023	

**ORDER**

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

This appeal filed by the assessee is directed against the order dated 02.09.2022 of the learned CIT (A)-11, Hyderabad relating to A.Y. 2019-20.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the ex-parte order of the CIT (A) in confirming the order of the Assessing Officer in taxing the amount of Rs.74,00,120/- @ 60% as per the provisions of section 115BBE of the I.T. Act as against 30% offered by the assessee.

3. Facts of the case, in brief, are that the assessee filed his return of income for the A.Y 2019-20 on 30.11.2020 admitting

total income of Rs.74,00,120/-. The Police authorities of Commissioner's Task Force, Central Zone Team, Hyderabad during their surveillance on illegal Hawala money transfer, intercepted four persons i.e. Sri Lal Chand Pandia, Sri Bajrang Lal Pareek, Sri Dalip Singh and Sri Kodati Thirupathi Rao on 8.8.2018 and found a cash of Rs.72,73,000/- with Sri Lal Chand Pandia which was about to be delivered to Sri Kodathi Tirupathi Rao. As the said four people could not explain the sources for the cash found, the Police have seized the cash and communicated the same to the Income Tax Department. Enquiries conducted by the Investigation Wing revealed that the said cash belonged to the assessee and the same was requisitioned u/s 132A of the I.T. Act.

4. The assessee in his sworn statement recorded u/s 131 owned up the cash of Rs.72,73,000/- and stated that he was a Vaastu Consultant by profession and the said cash was out of his professional receipts. However, the assessee could not produce any documentary evidence and offered entire cash of Rs.72,73,000/- as his additional income for the financial year 2018-19. Subsequently, the assessment u/s 143(3) of the I.T. Act was completed by assessing the total income of the assessee at Rs.74,00,120/- and accordingly taxed the same u/s 115BBE of the Act.

5. Since the assessee did not appear before the CIT (A) despite repeated opportunities granted by him, the learned CIT (A) dismissed the appeal filed by the assessee by following the decision of the Hon'ble Apex Court in the case of CIT vs. B.N. Bhattacharjee and another (10 CTR 354), in the case of CIT vs. Multiplan (India) Pvt. Ltd (318 ITD 320 (Del.) and the decision of the Chennai Bench in the case of M/s. Helios and Matheson

Information Technology Ltd vs. Income Tax Officer in ITA No.134/Mds/2011 dated 5.7.2011 for the A.Y 2006-07. Even otherwise, he also decided the issue on merit and upheld the action of the Assessing Officer.

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 submitted that the Counsel who was supposed to appear before the CIT (A) did not appear before him and also intimated the CIT (A) about his non-appearance for which the case was unrepresented before the CIT (A). He submitted that in the interest of justice, the assessee should be given an opportunity to represent his case and substantiate that the case does not fall under the provisions of section 115BBE of the I.T. Act.

8. The learned DR, on the other hand, heavily relied on the order of the CIT (A) and the CIT (A) has given cogent reasons for upholding the order of the Assessing Officer while deciding the appeal on merit. He accordingly submitted that the order of the CIT (A) being a reasoned one 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. It is an admitted fact that despite number of opportunities granted by the CIT (A), the assessee did not appear before him for which the learned CIT (A) was constrained to pass ex-parte order

dismissing the appeal by giving reasons for his decision while upholding the action of the Assessing Officer in taxing the amount of Rs.74,00,120/- @ 60% u/s 115BBE of the Act. It is the submission of the learned Counsel for the assessee that given an opportunity, the assessee is in a position to substantiate his case with evidence to the satisfaction of the CIT (A) that the provisions of section 115BBE are not applicable to the facts of the present case. 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 CIT (A) with a direction to grant one last opportunity to the assessee to substantiate his case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the CIT (A) and explain his case without seeking any adjournment under any pretext failing which the learned CIT (A) is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the Open Court itself at the time of hearing on 22<sup>nd</sup> February, 2023.

<b>Sd/-</b> <b>(K. NARASIMHA CHARY)</b> <b>JUDICIAL MEMBER</b>	<b>Sd/-</b> <b>(R.K. PANDA)</b> <b>ACCOUNTANT MEMBER</b>
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Hyderabad, dated 22<sup>nd</sup> February, 2023  
*Vinodan/sps*

Copy to:

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1	Shri Ramachandra Murthy Badarla, House No.1-30-717 Siva Nagar, Kanojiguda, Secunderabad 500015
2	Dy. CIT, Central Circle 3(3) Hyderabad
3	CIT -11 ,Hyderabad
4	Pr. CIT- Central, Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard Files

*By Order*