

आयकर अपीलिय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD

BEFORE
SHRI RAMA KANTA PANDA, ACCOUNTANT MEMBER
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 145/Hyd/2023
(निर्धारण वर्ष / Assessment Year: 2021-22)

Yeddula Harsha Vardhan
Reddy,
Hyderabad
[PAN No. AEYPH1934A]

अपीलार्थी / Appellant

Vs. Deputy Commissioner of
Income Tax,
Central Circle-1(1),
Hyderabad

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri K.C. Devdas, AR
राजस्व द्वारा/Revenue by: Shri Jeevan Lal Lavidiya, CIT-DR

सुनवाई की तारीख/Date of hearing: 18/04/2023
घोषणा की तारीख/Pronouncement on: 28/04/2023

आदेश / ORDER

PER K. NARASIMHA CHARY, JM:

Aggrieved by the order dated 11/01/2023 passed by the learned Commissioner of Income Tax (Appeals)-11, Hyderabad ("Ld. CIT(A)"), in the case of Yeddula Harsha Vardhan Reddy ("the assessee") for the assessment year 2021-22, assessee preferred this appeal.

2. Brief facts of the case are that assessee is an individual and deriving income from salary as a Joint Managing Director of M/s. Axis Energy Ventures India Pvt. Ltd. There was a search and seizure operation under section 132 of the Income Tax Act, 1961 (for short "the Act") on 10/12/2020 in the case of M/s. Axis Energy Venture India Pvt. Ltd., and

during the course of search and seizure operation in the residential premises of assessee, an amount of Rs. 5,56,220/- was found. Assessee explained that out of such amount, an amount of Rs. 33,500/- belongs to his aunt, Rs. 49.9 thousand, he got towards arrears of rent, Rs. 15.8 thousand towards withdrawal, Rs. 57 thousand belongs to his mother and Rs. 4 lakh belongs to his father, who kept it to meet the medical expenses of his grandmother and mother. Learned Assessing Officer accepted the explanation of the assessee for the amount of Rs. 1.56 lakhs. An amount of Rs. 4 lakh was seized.

3. Subsequently, when notice under section 142(1) of the Act was issued, assessee explained that he has been deriving rental income to the tune of Rs. 14,26,200/-, salary income of Rs. 8,92,663/- apart from this his father was deriving income between Rs. 30 and 40 lakhs per annum and filing the returns of income. His wife is also a professional doctor and filing her returns of income. His grandmother is getting annual rental income of Rs. 3.12 lakhs. Assessee, therefore, submitted that under these circumstances, having a cash balance of about Rs. 5 or 10 lakhs in a combined family is not abnormal. Assessee also enclosed the income tax returns of himself, his father and his wife to substantiate the plea.

4. Learned Assessing Officer, however, did not consider the explanation of the assessee, stating that at the time of search and seizure operations, the assessee explained that such Rs. 4 lakh belongs to his father and subsequently, changed his version that it belongs to the members of the combined family. Since there is no documentary evidence to establish his plea, assessee cannot be believed. He, therefore, brought the same to tax under section 69A of the Act.

5. Learned Assessing Officer, further noticed that the assessee claimed deduction under section 80D to the tune of Rs. 35,600/- but produced Form 16 issued by the employer, showing his certified deductions under section 80D at Rs. 20,000/- only. Since the assessee did

not produce any documents to support the balance claim of Rs. 15,600/-, learned Assessing Officer added same to the income of the assessee.

6. Assessee preferred appeal before the learned CIT(A). However, the learned CIT(A) observed that assessee did not appear before him in the appellate proceedings and, therefore, for want of any evidence, such as evidence to show the cash withdrawals from the bank account, receipt of rental income in cash etc., the version of the assessee cannot be believed. So also for want of evidence, he declined to delete the addition of Rs. 15,600/- claimed under section 80D of the Act.

7. Assessee preferred this appeal. Learned AR submitted that the assessee explained before the learned Assessing Officer about the financial status of his family and medical needs of his mother, father and grandmother. Having regard to the financial status of the assessee and the need of keeping some money in cash in view of the old age of the parents of the assessee and the grandmother, it is not abnormal for any man to keep a sum around Rs. 5 lakhs. Learned DR heavily placed reliance on the orders of the authorities below.

8. We have gone through the record in the light of the submissions made on either side. There is no dispute that the assessee has been working as a Joint Managing Director of M/s. Axis Energy Ventures India Pvt. Ltd. There is also no dispute that the wife of the assessee is a medical doctor. There is no dispute that the assessee filed returns of income of himself, his wife and his father. There is no adverse comment by the learned Assessing Officer about the parents and grandmother of the assessee staying with him. When the contention of the assessee that he is deriving salary income of Rs. 9 lakhs rental income of about Rs. 14.25 lakhs, his father deriving an income of Rs. 30 or 40 lakhs per annum and also his wife earning as a professional doctor goes undisputed, the financial status of the assessee is not in dispute. The parents and grandmother of the assessee due to their old age, require medical attention. And as a matter

of fact, when questioned at the time of search and seizure operations, the assessee stated that his grandmother aged 88 years fell down, surgically operated upon in Yashoda Hospital, Somajiguda and anticipating any medical emergency, his father pooled up money and kept a sum of Rs. 4 lakhs for such purpose. It is not in dispute that the grandmother of the assessee is also deriving some rental income.

9. In these circumstances, we do not find anything abnormality in the family members keeping a sum of Rs. 4 lakhs with them to meet the medical emergency, if any, that may arise in view of old age of the parents and grandmother. We, therefore, accept the contention of the assessee and direct the learned Assessing Officer to delete the addition of Rs. 4 lakhs made under section 69A of the Act.

10. Coming to the addition of Rs. 15,600/-, claimed as deduction under section 80D of the Act, according to the authorities below, there is no proof to support that part of the claim. Before us also no evidence is produced and at the same time, no explanation is forthcoming. Hence, we find it difficult to hold that the orders of the authorities below suffer any infirmity. Such an addition is accordingly confirmed.

11. In the result, appeal of the assessee is allowed in part.

Order pronounced in the open court on this the 28th day of April, 2023.

Sd/-
(RAMA KANTA PANDA)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 28/04/2023

TNMM

Copy forwarded to:

1. Yeddula Harsha Vardhan Reddy, C/o. B. Narsing Rao & Co., Chartered Accountants, Plot No. 554, Road No. 92, Jubilee Hills, Hyderabad.
2. The Deputy Commissioner of Income Tax, Central Circle-1(1), Hyderabad.
3. Pr.CIT(Central), Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ITAT, HYDERABAD