

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

**BEFORE SHRI R.K. PANDA, VICE PRESIDENT**  
**AND**  
**SHRI LALIET KUMAR, JUDICIAL MEMBER**

ITA No.662/Hyd/2022		
Assessment Year: 2016-17		
Shri Bharat Narang Secunderabad.	Vs.	A.C.I.T Central Circle 2(3) Hyderabad
(Appellant) PAN:AAGPN1064M		(Respondent)
Assessee by:	Shri P. Murali Mohan Rao, CA	
Revenue by:	Shri Kumar Aditya, DR	
Date of hearing:	12/06/2023	
Date of pronouncement:	21/06/2023	

**ORDER**

**Per Laliet Kumar, J.M**

This appeal filed by the assessee is directed against the order dated 30.09.2022 of the learned CIT (A)-12, Hyderabad relating to A.Y.2016-17 against the addition of Rs.10.00 lakhs u/s 153A of the I.T. Act.

2. Though the assessee had raised as many as grounds by filing additional grounds, but out of them except the following ground, remaining all are general and technical in nature and requires no adjudication :

*“The ld.CIT(A) has erred in holding that the AR’s contention that the plot owners have paid cash of Rs.10,00,000/- directly to Sri P. Damodar as part of sale consideration appears to be an after thought.”*

3. Facts of the case, in brief, are that the assessee is an individual and derives income from salary, income from business and income from other sources. The assessee filed its return of income u/s 139(1) on 24.9.2016 declaring total income at Rs.40,46,550/-. A search & seizure action u/s 132 of the I.T. Act was conducted on the assessee as part of the searches conducted on M/s. Skill Promoters Pvt. Ltd Group and others on 22.10.2019. The case was subsequently centralized and notice u/s 153A dated 2.2.201 for the A.Y 2016-17 was issued to the assessee, to which the assessee filed its return of income on 1.3.2021. Thereafter, statutory notices u/s 143(2) and 142(1) were issued and served on the assessee to which the A.R of the assessee appeared and filed the requisite details.

3.1 During the post search proceedings, the assessee was asked to explain the transaction in respect of the seized material at pages 28 and 29 of Annexure A/BN/RES/01. The assessee explained that Rs.10.00 lakh was acknowledged to have been received by Sri P Damodar vide MOU dated 22.2.2016 regarding settlement of a dispute with respect to a land in Guttala Begumpet, Survey No.10 which was purchased by the assessee family and plotting was done and sold to multiple parties. Thereafter, Sri P Damdar along with others came and claimed the ownership of the land which the assessee purchased and was litigating about the whole transaction. The assessee settled this dispute by paying Rs.10.00 lakh for them to stop claiming

ownership. In this regard the assessee was asked to produce the documentary evidence i.e. list of plot owners who have paid the above sum of Rs.10.00 lakh. Since no documentary evidence was submitted by the assessee, the Assessing Officer treated the same as unaccounted/ undisclosed income for the ass for the A.Y 2016-17.

4. In appeal, the learned CIT (A) confirmed the addition made by the Assessing Officer.

5. Aggrieved with such order of the learned CIT (A), the assessee is in appeal before the Tribunal.

6. Before us, the learned counsel for the assessee argued that the plot owners had paid a cash amount of Rs.10 lakhs directly to Shri P. Damodar as part of sale consideration, and paid only the net of sale consideration to the assessee. The assessee claimed to be merely a mediator in the transaction and stated that no amount was routed through him. The learned counsel for the assessee also submitted that the assessee had been an income tax assessee for the past three years and had filed income tax returns declaring more than Rs.10 lakhs, for the relevant assessment years prior to A.Y. 2016-17. Ld.AR for the assessee further submitted that the said contention was also placed before the ld.CIT(A).

7. On the other hand, ld.DR supported the orders of lower authorities.

8. We have heard the rival submissions and perused the material on record. In the present case, we noted that certain material was seized during the search and seizure operation conducted in the assessee's case and upon reviewing page numbers 28 and 29 of the seized material vide Annexure-A/BN/RES/01, it was found that assessee had paid Rs.9,00,000/- and Rs.1,00,000/- (totaling to Rs.10,00,000/-) to Shri P. Damodar as per the Memorandum of Understanding (MOU) dt.22.02.2016, which was related to the settlement of a dispute regarding land in Sy.No.10 of Guttala Begumpet. The assessee had reiterated its claim that the plot owners had paid cash directly to Shri P. Damodar as part of sale consideration, and the assessee had acted as mediator without funds being routed through him. The assessee further contended that the amount paid to P. Damodhar and others did not belong to him and therefore, the question of taxing it as undisclosed income should not arise.

9. Additionally, the assessee further pointed out that the Assessing Officer had made the addition without considering the fact that they had been regularly filing income tax returns and the Id.CIT(A) erroneously confirmed the same treating the assessee's contention that the plot powers had paid cash of Rs.10 lakhs directly to P. Damodar as part of sale consideration appears to be an afterthought.

10. The assessee has contended that he acted as a mediator in the transaction and that the plot owners directly paid Rs.10 lakhs in cash to Shri P. Damodar as part of the sale consideration. The assessee further argued that he did not receive or route any funds in this transaction. Further, the MOU dated 22.02.2016, found in the seized material, indicates that the assessee had paid Rs.9,00,000/- and Rs.1,00,000/- to Shri P. Damodar. However, considering the submissions and explanations provided by the assessee, it is plausible that these payments were made as part of the settlement of a dispute regarding land in Sy.No.10 of Guttala Begumpet, and not as income belonging to the assessee. It is worth noting that the assessee has been a regular filer of income tax returns for the past three years and has declared income exceeding Rs.10 lakhs for the relevant assessment years prior to the current one, which supports the assessee's claim that the undisclosed income of Rs.10 lakhs can be explained from past accumulations or savings and we do not find assessee's contention as an after thought. Since the assessee failed to provide sufficient evidence before the Assessing Officer and he had only raised the plea before the Id.CIT(A), hence to balance the interest of parties and end the litigation, we allow the relief of Rs.6 lakhs to assessee and confirm the remaining amount of Rs.4 lakhs. Considering the submissions made by the assessee, the absence of evidence indicating that Rs.10 lakhs belonged to the assessee, and the assessee's contention that he is a regular tax filer for the preceding years, we are of the opinion that an amount of Rs.6,00,000/- on estimate basis is available to the assessee to explain out of the addition of Rs.10,00,000/- and the amount of

Rs.4,00,000/- remained unexplained. Hence, the addition of Rs.4,00,000/- is upheld. Thus, the ground of the assessee is partly allowed.

11. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the Open Court on 21<sup>st</sup> June, 2023.

<b>Sd/-</b> <b>(R.K. PANDA)</b> <b>VICE PRESIDENT</b>	<b>Sd/-</b> <b>(LALIET KUMAR)</b> <b>JUDICIAL MEMBER</b>
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Hyderabad, dated 21<sup>st</sup> June, 2023.

**TYNM/SPS**

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3	Pr. CIT Central, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File