

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "SMC", HYDERABAD**

BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.333/Hyd/2023		
Assessment Year: 2017-18		
Sandeep Auraneebadkar, R/o. Hyderabad. PAN : AFKPA3336A.	Vs.	The Income Tax Officer, Ward 7(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:		Shri Sameer, C.A. appeared for Shri Manoj Kumar Daga, C.A.
Revenue by:		Shri B. Ravinder
Date of hearing:		05/07/2023
Date of pronouncement:		05/07/2023

ORDER

Per Laliet Kumar, J.M.

The appeal of the assessee for A.Y. 2017-18 arises from the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dt.09.05.2023 invoking proceedings under section 143(3) of the Income Tax Act, 1961 (in short, "the Act").

2. The grounds raised by the assessee reads as under :

- “1. The ld.CIT(A) has erred on facts and in law of the case.*
- 2. The ld.CIT(A) erred in upholding the addition of Rs.8,73,824/- u/s 69A as unexplained money made by the Assessing Officer.*
- 3. The ld.CIT(A) has not brought on record any evidence to controvert the facts put forth by the assessee from time to time.*
- 4. The ld.CIT(A) has not given any valid reason for not believing the explanations furnished during the course of assessment.*
- 5. The ld.CIT(A) has not given any credit for the past savings and income earned during the current year which were utilized for making the payments towards credit card dues.*
- 6. That both the ld.AO and ld.CIT(A) did not verify the details furnished in proper perspective and thus violated the principles of natural justice.*
- 7. That ld.CIT(A) is not correct in dismissing the grounds raised by the assessee with regard to applying the provisions of section 115BEE for purpose of tax rates.*
- 8. The ld.CIT(A) has erred in upholding the action of the Assessing Officer in charging the interest under section 234B and 234C on assessed income instead of returned income.”*

3. Facts of the case, in brief, are that the assessee is an individual and has been carrying on the business of audio / video distribution / trading in electronic items. The assessee filed return of income for A.Y. 2017-18 declaring total income of Rs.3,86,150/- on 05.03.2018. The case of the assessee was selected for scrutiny and the Assessing Officer had completed the assessment u/s 143(3) of the Act on 24.12.2019 determining the total income at Rs.12,59,974/- with a demand of Rs.9,61,962/-. While completing the assessment, the Assessing Officer made addition of Rs.8,73,824/- u/s 69A of the Act due to disbelief on the explanation furnished by the ass from time to time.

4. Feeling aggrieved with the order of Assessing Officer, assessee carried the matter before Id.CIT(A), who dismissed the appeal of assessee.

5. Feeling aggrieved with the order of Id.CIT(A), assessee is now in appeal before us.

6. Before me, Id. AR contended that assessee made the credit card payments from his income, past savings, and reimbursement for expenses incurred on behalf of family members only. The Id. AR further stated that assessee had already furnished these details to the Assessing Officer in response to notice dt.28.10.2019 and 23.12.2019. However, the Assessing Officer wrongly made addition of Rs.8,73,824/- without properly considering the facts furnished in the reply notices and that the Id.CIT(A) had also wrongly confirmed the order of Assessing Officer. Hence, the orders of lower authorities are not in accordance with law.

7. Per contra, the Id.DR had relied upon the orders passed by the lower authorities. Further, Id. DR had drawn our attention to Para 5.3 of the order passed by the Id.CIT(A) which is to the following effect :

“5.3 Having considered the factual matrix of the case, I find that the AO has made addition of Rs. 8,73,824/- as the payments made in cash towards credit card payments stood unexplained and the same was brought to tax u/s 69A of Act. The AO also held that the provisions of section 115BBE of the Act as substituted by the Taxation Laws (Second Amendment) Act, 2016 which is applicable from 01.04.2017 as per which where the total

income includes any income referred to in section 68 69, 69A, 62B, 69C or 69D of IT -Act, the income tax payable shall be charged 60% plus surcharge @ 25% of such tax. The contention of the assessee has been that the payment in cash was made out of incomes and past savings. However, the assessee has failed to explain the reasons and proof of holding of such big amount in cash and not depositing his incomes and savings in the bank. The contention of the assessee is not backed by any proof in the form of bank statements. The assessee has also failed to explain that withdrawals of the year were in cash and they were not expended elsewhere like regular household expenses. The assessee has also not filed any proof of incomes of his family members from whom he claims to have received cash as reimbursements for use of credit card. Under the circumstances, I do not see any reason to interfere with the well reasoned order of the Assessing Officer making an addition of Rs.8,73,824/- as the payments made in cash towards credit card payments u/s 69A of the Act and taxing the amount under section 115BEE of the Act which is perfect as per law.”

8. I have heard the rival submissions and perused the material on record. In the present case, during the course of assessment proceedings, as the assessee had failed to explain the credit card payments with supporting documentary evidence, Assessing Officer had treated the said credit card payments assessee as unexplained and had made an addition of Rs.8,73,824/- u/s 69A of the Act. However, on perusal of the record, we find that Assessing Officer had not controverted the facts furnished by the assessee by way of reply notice dt.28.10.2019 and 23.12.2019 but simply made the addition due to disbelief on the explanations of the assessee. I further find that though the assessee claimed that the credit card payments were out of incomes, past savings and reimbursement for expenses incurred on behalf of his family members only, however, he failed to provide satisfactory explanations or any documentary evidence like bank statements, for holding such a significant amount in cash and not depositing it in a bank. However, as the case may be, it cannot be

denied that assessee was regularly assessed to tax and would have had cash in hand for the last several years.

9. In view of the foregoing discussions and considering the absence of sufficient evidence, inadequate explanation by the assessee, lack of supporting documentation, and considering human conduct and probabilities, I am of the opinion that it is fair to delete an amount of Rs.4,73,824/- out of the total addition of Rs.8,73,824/- and confirm the remaining amount of Rs.4,00,000/-. Therefore, we hereby delete an amount of Rs.4,73,824/- and confirm the remaining amount of Rs.4,00,000/-. Thus, the appeal of the assessee is partly allowed.

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

Order pronounced in the Open Court on 5th July, 2023.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad, dated 5th July, 2023.

TYNM/sps

Copy to:

S.No	Addresses
1	Sandeep Auranebadkar, 12-2-422/115, Priya Colony, Mehidipatnam, Hyderabad.
2	The Income Tax Officer, Ward 7(1), Hyderabad.
3	DR, ITAT Hyderabad Benches
4	Guard File

By Order