

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

Before Shri Laliet Kumar, Judicial Member
And
Shri Manjunatha, G. Accountant Member

आ.अपी.सं / **ITA No.1768/Hyd/2017**
(निर्धारण वर्ष/Assessment Year: 2014-15)

Shri Vasapathi Anjaneyulu Goud RR Distt. PAN:AJQPG0485N (Appellant)	Vs.	Income Tax Officer Ward 15(4) Hyderabad (Respondent)
निर्धारिती द्वारा/Assessee by:	C.A. Venkata Nagaraju	
राजस्व द्वारा/Revenue by:	Shri Srinath Sadanala, DR	
सुनवाई की तारीख/Date of hearing:	03/09/2024	
घोषणा की तारीख/Pronouncement:	03/09/2024	

आदेश/ORDER

Per Manjunatha, G. A.M

This appeal filed by the assessee is directed against the order dated 13/06/2017 of the learned CIT (A)-7, Hyderabad and pertains to A.Y.2014-15.

2. The brief facts of the case are that the assessee is an individual engaged in the business of civil construction work filed return of income for the A.Y 2014-15 on 10.12.2014 admitting

total income of Rs.2,56,830/-. The case was selected for scrutiny and during the course of assesment proceedings, the Assessing Officer noticed that the assessee has made cash deposits into his savings bank account held with Andhra Bank, Dammaiguda Branch, R. R. District. The Assessing Officer called upon the assessee to explain the source for cash deposits into bank account. In response, the assessee submitted that he is into the business of civil construction work and has received payment from various customers for construction work and the same has been deposited into his savings bank account. The assessee also furnished details of payments made for various expenditure from the said bank account. The Assessing Officer, however, was not convinced with the explanation furnished by the assessee and according to the Assessing Officer, the assessee could not explain the source for cash deposits in his bank account to the tune of Rs.64,68,457/- and thus made additions u/s 68 of the I.T. Act, 1961.

3. Being aggrieved by the assessment order, the assessee preferred an appeal before the learned CIT (A). Before the learned CIT (A) the assessee has reiterated his arguments made before the Assessing Officer and submitted that the credits found in the savings bank account held with Andhra Bank relates to the amount received from various customers for construction work and the same has been utilized for making purchases of material and other labour expenses. The learned CIT (A) after considering

the relevant submission of the assessee and also taken note of credits found in the bank account rejected the explanation furnished by the assessee and sustained the addition made towards cash deposits on the ground that the explanation of the assessee are general in nature without any corroborative evidences. The affidavit given by the assessee was also not retracted. The allegation that the Assessing Officer forcefully took the affidavit does not have any credibility as the same is given by the assessee which is not raised. Therefore, opined that the assessee could not explain the source for cash deposits mad into his bank account and thus sustained the additions made by the Assessing Officer u/s 68 of the I.T. Act, 1961.

4. Aggrieved by the order of the learned CIT (A), the assessee is in appeal before the Tribunal.

5. The learned Counsel for the assessee submitted that the learned CIT (A) is erred in rejecting the explanation furnished by the assessee without appreciating the fact that the appellant has filed details of names and addresses of persons from whom amount was received towards construction works. The learned Counsel for the assessee further referring to the affidavit filed by various parties submitted that the persons who paid the money to the appellant towards construction work has filed affidavits and stated that they have obtained construction services from the appellant for construction of residential house. Although the

appellant has filed various details including details of payments made for purchase of materials and labour expenses, the learned CIT (A) ignored the evidences filed by the assessee and sustained the additions made by the Assessing Officer. Therefore, he submitted that the addition made by the Assessing Officer should be deleted.

6. The learned DR, on the other hand, supporting the orders of the authorities below submitted that although the appellant claims to have been engaged in the business of civil construction work, but no evidence has been filed. Further, the appellant could not explain the source for cash deposits into his bank account and also filed an affidavit before the Assessing Officer and stated that there is no explanation with regard to the source for cash deposits. Therefore, the subsequent averments of the assessee in light of certain affidavits filed from various persons is only an afterthought to circumvent the additions made by the Assessing Officer and thus the learned CIT (A) has rightly rejected the explanation furnished by the assessee and sustained the additions made towards cash deposits u/s 68 of the I.T. Act, 1961. Therefore, the order of the learned CIT (A) should be upheld.

7. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. There is no dispute with regard to the fact that the

appellant is engaged in the business of civil construction work and also declared income from business and profession from said activities. The appellant has made cash deposits into his savings bank held with Andhra Bank and claimed that the source for the said cash deposits is out of amount received from various persons towards construction works. To support his argument, the appellant has obtained affidavits from his customers and filed before the learned CIT (A) and even before us. On a perusal of bank statements of the assessee held with the Andhra Bank, we find that immediately after deposit of cash into his bank account, the appellant has made payments to various parties including Nagarjuna Ispat (P) Ltd for purchase of steel and other material. From the above, it is undoubtedly clear that the appellant has received amount from customers towards construction work and also spent the said money towards purchase of material and incurred for labour expenses. Therefore, the argument of the assessee regarding the source for cash deposits is out of amount received from customers appears to be bonafide and acceptable. Although, the assessee has filed various evidences including affidavit from customers, the learned CIT (A) without any valid reasons rejected the evidences filed by the assessee and sustained the addition made by the Assessing Officer towards cash deposits u/s 68 of the I.T. Act, 1961. In our considered view, when the authorities are not disputing the fact that the appellant is engaged in the business of civil construction work, the argument of the assessee that source for cash deposits into his bank

account from customers also needs to be accepted. Therefore, to this extent, we agree with the argument of the learned Counsel for the assessee.

8. Having said so, let us come back whether the appellant has fully explained the cash deposits to the satisfaction of the Assessing Officer. The appellant has fully relied upon the secondary evidences like affidavit from customers. The basic evidences like agreement with customers for civil construction work and relevant bills issued to the customers are not available for verification. Further, although the appellant has issued cheques to various parties including Nagarjuna Ispat (P) Ltd and claims that the said payment is for purchase of steel, but no evidences including bills for purchase of material has been furnished. Therefore, under these circumstances, it cannot be said that the appellant has discharged the onus of cash deposits in respect of credits found in his bank account and also payment made to various parties. Therefore, we are of the considered view that only possible way out is to estimate income from cash deposits found in his bank account. Thus, considering the nature of the business of the assessee and also explanation furnished by the assessee, in our considered view, a reasonable amount of profits needs to be estimated on total cash deposits. Thus, we direct the Assessing Officer to estimate 20% profit on total cash deposits of Rs.64,68,457/- found in the bank account of the assessee held with Andhra Bank.

9. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the Open Court on 3rd September, 2024.

Sd/-

Sd/-

(LALIET KUMAR) JUDICIAL MEMBER	(MANJUNATHA, G.) ACCOUNTANT MEMBER
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Hyderabad, dated 3rd September, 2024

Vinodan/sps

Copy to:

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1	Sri Vasapathi Anjhaneyulu Goud, H.No.8-62, Opp: Gram Panchayat Office, Dammaiguda Village, Keesara Mandal, R.R. Distt.
2	Income Tax Officer Ward 15(4) Hyderabad
3	Pr. CIT – 7, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order