

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

Before Shri Manjunatha, G. Accountant Member and
Shri Prakash Chand Yadav, Judicial Member

आ.अपी.सं / **ITA No. 130/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2015-16)

Shri Manjunatha Venkata Subrahmanya Dudyala Kuruvanka, A.P PAN:AFYPD9743A	Vs.	Asstt. C. I. T. Circle 1(1) Tirupati
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:		Advocate GSSS Gopinath
राजस्व द्वारा / Revenue by:		Shri Srinath Sadanala, DR
सुनवाई की तारीख / Date of hearing:		19/09/2024
घोषणा की तारीख / Pronouncement:		19/09/2024

आदेश/ORDER

Per Manjunatha, G. A.M

This appeal filed by the assessee is directed against the order dated 21/11/2023 of the learned CIT (A)/Addl/JCIT(A)3 NFAC, Delhi, relating to A.Y.2015-016.

2. At the outset, it is seen that there is a delay of 24 days in filing the appeal before the Tribunal to which the assessee has filed a condonation petition. Considering the reasons given by the

assessee for not filing the appeal in time, we are of the considered view that the reasons given by the appellant does come under reasonable cause and thus, the delay of 24 days in filing the appeal by the assessee is hereby condoned and the appeal is admitted for adjudication.

3. Facts of the case, in brief, are that the assessee, an individual, derived income from salary and other sources, filed his return of income for the A.Y 2015-16 on 13/01/2017 declaring total income of Rs.16,65,570/-. The case was selected for scrutiny to verify the source for cash deposits into bank account. During the course of assesment proceedings, the Assessing Officer called upon the assessee to file necessary evidences to prove source for cash deposits and the case has been posted for hearing on many occasions as noted by the Assessing Officer in Para 2 of the assessment order. The assessee neither appeared nor filed any details. Therefore, the Assessing Officer passed "best judgment assessment" u/s 144 of the I.T. Act, 1961 on 28/12/2017 and made addition of Rs.15,83,000/- u/s 68 of the I.T. Act, 1961 towards cash deposits into bank account. The Assessing Officer had also made addition of Rs.17,465/- towards interest earned from bank under the head "income from other sources".

4. Being aggrieved by the assessment order, the assessee preferred an appeal before the learned CIT (A). Before the learned

CIT (A), the assessee has challenged the assessment on various issues including jurisdiction of the Assessing Officer in assessing the income of the appellant and also challenged the addition made by the Assessing Officer towards cash deposits u/s 68 of the I.T. Act, 1961. The learned CIT (A) after considering the relevant submissions, dismissed the appeal filed by the assessee and upheld the addition made by the Assessing Officer towards cash deposits u/s 68 of the I.T. Act, 1961.

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

6. The learned Counsel for the assessee submitted that the assessment was completed u/s 144 of the I.T. Act, 1961. The appellant could not appear before the Assessing Officer nor filed any details. Before the learned CIT (A), the appellant has filed various details to explain source for cash deposits but the learned CIT (A) rejected the evidence filed by the assessee and sustained the additions made by the Assessing Officer. The assessee has collected some additional evidences which are relevant to decide the issue on hand and those evidences were not filed before the Assessing Officer and the learned CIT (A). Therefore, to give one more opportunity to the assessee, the appeal may be set aside to the file of the Assessing Officer.

7. The learned DR, on the other hand, supporting the orders of the learned CIT (A) submitted that the assessee is non-cooperative at all stages of the proceedings which is evident from the ex-parte assessment order passed by the Assessing Officer and as per the order of the learned CIT (A), the appellant could not furnish any evidences to explain source for cash deposits. Therefore, there is no reason to set aside the issue to the file of the Assessing Officer and the order of the learned CIT (A) should be sustained.

8. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. The appellant has made cash deposits of Rs.15,83,500/- into SBI Bengaluru. The Assessing Officer made addition towards the cash deposits when the appellant has not explained the source for the said cash deposits. Before the learned CIT (A), the appellant has filed certain additional evidences including copy of sale deed and claimed that he has sold a flat for Rs.33,53,582/- and it was registered for Rs.17,70,082/-. The consideration received as per the sale deed was deposited in Agrasena Cooperative Bank, Hyderabad and the remaining portion of cash consideration of Rs.15,83,500/- was deposited in SBI Bengaluru. The appellant has purchased a new residential house and the entire sale proceeds including cash consideration was invested for purchasing another residential house. As the appellant was in lack of knowledge about the capital gain, he has not shown his

transaction in his return of income filed, otherwise the consideration received for sale of property including cash consideration which is source for cash deposits into bank is fully utilized for purchase of another residential house and to this regard, the appellant has collected certain additional evidences including copies of challans for cash deposits into Agrasena Cooperative Bank Ltd, Hyderabad and the same are relevant to decide the issue. We find the appellant has sold property on 9/6/2014 and the cash deposits into bank account was in the month of May, 20214. The appellant claims that the cash consideration received towards sale of property has been deposited into bank and in this regard placed certain evidences including challan for deposits into bank in light of signature of depositor appearing in the challan and the signature of the purchase of the property and claimed that the purchase of property has deposited into bank account. We find that there is a proximity between the date of cash deposit into bank account and the date of sale of the property. Further, the signature appearing in deposit challan and the signature in the sale deed appears to be one and the same. From the above, it seems that the appellant might have received cash towards sale of property and the source for cash deposit into bank account may be out of sale proceeds received for sale of property. Further, it was the claim of the appellant that entire consideration including cash portion of the consideration has been invested for purchase of another residential house property and eligible for exemption u/s 54 of the

Act. Facts needs to be verified. If the claim of the assessee is correct, then the Assessing Officer is required to consider total consideration including cash consideration towards sale of property for the purpose of taxation and further if the assessee invested entire consideration for purchase of another residential house property within the time allowed u/s 54 of the I.T. Act, 1961, then the Assessing Officer is directed to consider the claim of the assessee and verify the computation of capital gain and allow relief as per law. In so far as the source for cash deposit is concerned, the Assessing Officer is directed to verify the claim of the assessee in light of additional evidences filed by the assessee and if the claim of the assessee is correct, then the Assessing Officer is directed to accept the explanation of the assessee with regard to the source for cash deposit and delete the addition made u/s 68 of the I.T. Act, 1961.

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

Order pronounced in the Open Court on 19th September, 2024.

Sd/- (PRAKASH CHAND YADAV) JUDICIAL MEMBER	Sd/- (MANJUNATHA, G.) ACCOUNTANT MEMBER
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Hyderabad, dated 19th September, 2024

Vinodan/sps

Copy to:

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

By Order