

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. 483/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2015-16)

MSN Institute of Medical Sciences Private Ltd Hyderabad PAN:AAJCM1030E	Vs.	Asstt. C. I. T. Central Circle 2(4) Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	CAs Shri M.V. Prasad and Shri K.S Rajendra Kumar	
राजस्व द्वारा/Revenue by:	Shri Srinath Sadanala, DR	
सुनवाई की तारीख/Date of hearing:	05/09/2024	
घोषणा की तारीख/Pronouncement:	01/10/2024	

आदेश/ORDER

Per Manjunatha, G. A.M

This appeal filed by the assessee is directed against the order dated 16/04/2024 of the learned CIT (A)-12, Hyderabad, relating to A.Y.2015-16.

2. The brief facts of the case are that the assessee is a company, involved in the business of service sector was filed its return of income for the A.Y 2015-16 declaring loss of Rs.36,000/-. A search & seizure operation u/s 132 of the I.T. Act, 1961 was conducted in the case of M/s. Prathima Infrastructure Pvt. Ltd and its associated entities on 06/02/2020. The assessee was also covered in the search & seizure operation. During the course of search at the residence of Mr. D. Venugopal Reddy, an employee of the assessee company, incriminating documents were found and seized and as per the said incriminating material, the assessee has paid Rs.81.00 lakhs towards purchase of land admeasuring 3.10 acres and 1 acre situated at Kothur Village. During the post search investigation, it is seen that the appellant has purchased land admeasuring 3.1 acres at Kothur for a sale consideration of Rs.13.00 lakhs and agreed to admit the balance of Rs.68.00 lakhs as on-money paid for purchase of land and the same has been disclosed as undisclosed income for the A.Y 2015-16. The said admission has been confirmed by Mr. MSN Reddy in the capacity of Chairman of the group. The Assessing Officer further noted that although the appellant has admitted additional income of Rs.68.00 lakhs during the course of search proceedings, but the same was not admitted in the return of income filed. Therefore, called upon the assessee to file its objection, if any, for proposed addition of Rs.68.00 lakhs u/s 69 of the I.T. Act, 1961. In response, the assessee submitted that the statement given during the course of search has been withdrawn

with written affidavit and also explained the contents of the seized material. Therefore, the question of offering additional income as per the seized document does not arise. The Assessing Officer however, was not convinced with the explanation of the assessee and according to the Assessing Officer, the documents found during the course of search clearly shows consideration paid for purchase of property over and above the registered value and further there is a signed receipt for payment of Rs.40.00 lakhs and thus, the argument of the assessee that on the basis of the document, no addition can be made is incorrect. Therefore, rejected the arguments of the assessee and made addition of Rs.68.00 lakhs u/s 69 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 reiterated its argument taken before the Assessing Officer and submitted that as per the seized documents, it shows payment of Rs.40.00 lakhs for purchase of 4.1 acres of land at Kothur Village. The remaining amount of Rs.41.00 lakhs is not given to any person for purchase of the property and the said notings is not showing any details to whom the amount has been paid. Therefore, based on the admission, addition cannot be made. The learned CIT (A) after considering the relevant submission of the assessee and also taken note of the seized documents allowed partial relief of Rs.10.00 lakhs to the appellant out of total cash payment of Rs.68.00 lakhs as per

seized document in respect of Rs.10.00 lakhs paid on 9/3/2014 which pertains to A.Y 2014-15. In respect of balance amount of Rs.58.00 lakhs, the learned CIT (A) confirmed the addition made by the Assessing Officer on the ground that the document clearly shows payment of Rs.81.00 lakhs for purchase of property at Kothur Village. Further, there is a signed receipt from the vendors of the land for receipt of Rs.40.00 lakhs including Rs.10.00 lakhs paid for earlier A.Ys. The balance amount of Rs. 41.00 lakhs has also been paid towards purchase of 3.1 acres of land which is very clear from the bottom of the seized document, where the details of payment made for purchase of land and other expenses has been specified. Therefore, opined that there is a clear evidence in the form of seized document towards on money payment for purchase of property, and thus, the Assessing Officer has rightly made addition u/s 69 of the I.T. Act, 1961 in respect of cash payment over and above the consideration as per the registered deed and thus, accordingly, sustained the addition of Rs.58.00 lakhs made u/s 69 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 sustaining the addition to the extent of Rs.58.00 lakhs, even though for the balance amount of Rs.41.00 lakhs, there is no details as to whom the said payment was made.

The learned Counsel for the assessee further submitted that the Assessing Officer erroneously made addition based on his conclusion regarding making of the alleged cash payment of Rs.41.00 lakhs without appreciating the fact that in the rough notings, no name of the person has specified, nor the purpose of the payment. Further, the payment of Rs.41.00 lakhs is not supported by signed receipts. 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 learned CIT (A) submitted that the document found during the course of search clearly shows excess payment over and above consideration as per the registered sale deed for purchase of property and the said payment was made in cash. Further, there is a signed receipt for payment of Rs.40.00 lakhs which is available in the top portion of the said document. The remaining amount has been specified in the bottom of the said document where it has been clearly stated that Rs.41.00 lakhs has been paid for purchase of 3.1 acres of land at Kothur Village. The Assessing Officer and the learned CIT (A) after considering the relevant facts has rightly made addition and their orders 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 has purchased 3.1 acres and 1.0 acre land at Kothur Village and the said property was registered for a consideration of Rs.13.00 lakhs. Further, as per the seized document found during the course of search, the total amount paid for purchase of property has been recorded and as per the said document, there is a signed receipt for payment of Rs.40.00 lakhs for purchase of 3.10 acres and 1 acre at Kothur. Similarly, in the bottom of the seized document, another Rs.41.00 lakhs has been specified under name main account and the said amount claimed to have been paid on 21/05/2014. It is the argument of the learned Counsel for the assessee that for payment of Rs.40.00 lakhs, there is a corroborative evidence in the form of signed receipt by the vendors, whereas in respect of Rs.41.00 lakhs, except a jottings in the loose sheet, there is no corroborative evidence like any agreement for sale or signed receipt from the vendor. We find that on the top of the seized document, there is a signed receipt from the vendor and as per the signed receipt, sum of Rs.40.00 lakhs has been paid for purchase of 4.10 acres land at Kothur Village. Out of Rs.40.00 lakhs, Rs.10.00 lakhs was paid on 9.3.2014 which falls under the A.Y 2014-15 but not for the A.Y 2015-16. The learned CIT (A) after considering the relevant date of payment, deleted the addition of Rs.10.00 lakhs and the same has been accepted by the Revenue. In so far as balance of Rs.30.00 lakhs, the said payment has been made on 3.5.2014 for purchase of land at Kothur and the same has been acknowledged by the vendor by issuing a signed receipt. Therefore, to the extent of

payment of Rs.30.00 lakhs, there is a clear evidence in the form of signed receipt with corresponding details of land purchases. Therefore, the argument of the assessee that there is no corroborative evidence for payment of Rs.30.00 lakhs is devoid of merit and thus,, we uphold the addition made by the Assessing Officer to the extent of Rs.30.00 lakhs as per signed receipt which includes consideration as per registered sale deed amounting to Rs.13.00 lakhs. In so far as payment of Rs.41.00 lakhs, there is no details as to who has been paid like earlier payment which is supported by a signed receipt. Further, there is no corroborative evidence with the Assessing Officer like any sale agreement or receipt, except jottings in the loose sheet. Unless there is a corroborative evidence which suggests payment of extra consideration for purchase of property, it cannot be alleged that the assessee has paid additional consideration without there being any reference to either the name of the person whom it has been paid or the purpose of the payment. Since there is no clear evidence for payment of Rs.41.00 lakhs to the vendor for purchase of property and further as per registered sale deed, the fair market value of the property is also equal to the amount of consideration referred to in the sale deed, in our considered view, merely on the basis of some recording in the loose sheet, it cannot be alleged that the appellant has paid on money for purchase of property. Therefore, we direct the Assessing Officer to delete the addition of Rs.41.00 lakhs as per the seized document found during the course of search. To sum up, out of addition of

Rs.58.00 lakhs sustained by the lc, the assessee gets relief of Rs.41.00 lakhs and the balance amount of Rs.17.00 lakhs is confirmed.

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

Order pronounced in the Open Court on 1st October, 2024.

Sd/-

Sd/-

(LALIET KUMAR) JUDICIAL MEMBER	(MANJUNATHA, G.) ACCOUNTANT MEMBER
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Hyderabad, dated 1st October, 2024

Vinodan/sps

Copy to:

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2	ACIT, Central Circle 2(4) Aayakar Bhavan, Opp: LB Stadium, Basheerbagh, Hyderabad 500004
3	Pr. CIT – CENTRAL, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order