

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

Before Shri Laliet Kumar, Judicial Member
A N D
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं / **ITA Nos.667 to 670/Hyd/2024 &**
SA Nos. 17 to 19/Hyd/2024

(निर्धारण वर्ष/Assessment Years: 2011-12 to 2013-14)

Shri Arun Kumar Dhondi Kubeer, Armoor PAN:AAZPD7647P (Appellant)	Vs.	Income Tax Officer Ward-1 Nizamabad (Respondent)
निर्धारिती द्वारा/Assessee by:	C.A. K Hanmandloo	
राजस्व द्वारा/Revenue by:	SR-AR Shri R Kumaran appeared for Sr.AR Shri Madam Mohan Meena	
सुनवाई की तारीख/Date of hearing:	19/12/2024	
घोषणा की तारीख/Pronouncement:	19/12/2024	

आदेश/ORDER

Per Laliet Kumar, J.M

These appeals and Stay Applications filed by the assessee are directed against the separate orders, all dated, 14/05/2024 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2016-17.

2. The brief facts of the case are that, the assessee is an individual and engaged in the business of money lending and real

estate, derives income from house property, share of profits from Partnership firms (i) Arun Paints and Hardware and (ii) M/s. Navanatha Puri Finance Corporation, capital gains, interest income as well as agricultural income. The assessee filed his Return of Income for the Asst. Year 2011-12 on 04.05.2018 admitting a total income of Rs.5,29,400 and estimated Agricultural income of Rs.1,65,000. The Appellant was served upon notices u/s 133(6) regarding transactions with The Citizen Co-operative Credit Society. The Appellant has filed his response to notice u/s 133(6) along with the information called for. The Case has been selected for scrutiny and served notices U/s 148,143(2) and 142(1). During the assessment proceedings the appellant has submitted cash book, copies of bank statements along with statements of income. During the scrutiny proceedings the appellant submitted details of immovable assets along with copies of sale deeds, all bank statements of the assessee and his family members bank accounts, details of Income Tax Returns filed etc. The Assessing Officer rejected all the arguments of the assessee and has passed Assessment Order u/s 143(3) Dt.31.12.2018 r.w.s 147 of the Income Tax Act,1961. The Assessing officer has also initiated penalty proceedings u/s 271(1)(c).

3. It is the contention of the learned Counsel for the assessee that, when the learned CIT (A) called for the remand report from the Assessing Officer which are available in Paragraph 6.2 of his order. In the remand report, the Assessing Officer at

page No.7 & 8 of the paper book, mentioned that, the assessee is having a negative cash balance of Rs.32,59,087/-. The remand report of Assessing Officer is reproduced herein below:

No.ITO/W-1/NZB/Remand/2019-20.

Office of the
Income Tax Officer, Ward-1,
Nizamabad. Date: 25-11-2019.

To
The Commissioner of Income Tax(Appeals)-5,
Hyderabad.

(Through the Addl.C.I.T., Nizamabad Range, Nizamabad)

Sir,

Sub: Report on Current Account cash transactions statement filed during the course of remand proceeding in the case of Sri D.K.Arun Kumar for A.Y.s 2011-12, 2012-13 and 2013-14 – Submission of – Reg.

Ref: i. Letter of CIT(A)-5, Hyderabad in F.No.CIT(A)-5/Remand Report/ITO Ward-1, NZB/2018-19, dt.11-10-2019.

ii. Letter of CIT(A)-5, Hyd in F.No.ITO Ward-1, NZB/Report/CIT(A)-5/2018-19, dt.19-11-2019.

Kind reference is invited to the above.

As per the directions of the Commissioner of Income-Tax(Appeals)-5, Hyderabad, a detailed verification is made to ascertain the validity of the cash balances claimed by the assessee. The verification is made considering the Bank statements, Return of incomes, Deposit loan, SOD loans, Trial balance & Capital accounts, Balance sheets, Cash book, Current account cash transactions statement, submission made during scrutiny proceedings cash book (from 17-07-2002 to 31-03-2009), summary of the return of incomes & the written submissions made by AR letter dated 19-11-2019.

All the above statements are cross confirmed with each other and has prepared a consolidated funds flow statement by incorporating all the available family return of incomes along with deposit loans as source of cash inflows and the total is matched with available assets of the family which is cash out flow and arrived at the balance as on 31-03-2009 & 31-03-2013 to substantiate and cross confirm the available cash balances.

The evidences for verification are considered basing on the Numerical figures available in the above statements.

The following documents which are verified and considered as evidence is submitted along with this letter.


1. Detailed report relating to the observations made on comparing the cash book with current account cash transaction account.

2. The cash book from 17-07-2007 to 31-03-2009 along with the observations made on comparing with entries in bank statements, abstract of deficit balances(Mentioned as Annexure-I).
3. Consolidated cash flow of D.K. Arun Kumar Family as on 31-03-2009(Mentioned as Annexure-II (A)).
4. Consolidated cash flow of D.K. Arun Kumar Family as on 31-03-2013(Mentioned as Annexure-II (B)).
5. Balance sheets of family members as on 01-04-2009 & 31-03-2013 which are submitted during scrutiny proceedings.
6. Capital fund accounts, trial balance of D.K. Arun Kumar from A.Y. 2009 to A.Y.2013-14.
7. Current account cash transactions statement submitted during scrutiny proceedings.
8. Cash book submitted during scrutiny proceedings.
9. Summary of returned income submitted during scrutiny proceedings.

On cross confirming the entries and considering evidences, I have arrived negative balance of Rs.(-) 3259087/- the details are submitted with narrated explanations in the report furnished in enclosed above.

In the light of the above facts, I request the Commissioner of Income tax(Appeals)-5, Hyderabad, to decide the case on merits.

Yours faithfully,


(CH.SAMUEL RAJU)
Income-tax Officer,
Ward-1, Nizamabad.

Encl: As above.

4. The learned AR submitted that despite the above, the learned CIT (A) had dismissed the appeals of the assessee for the reasons mentioned therein. It was further submitted that the learned CIT (A) at page 6 of his order had mentioned about the negative cash balance of the assessee, however, despite that, the learned CIT (A) upheld the order passed by the Assessing Officer, by mentioning that the assessee was not able to prove negative balance with reference to documentary evidence. It was submitted

that, once the negative cash balance has been accepted by the Assessing Officer in the remand report, it was not required for the learned CIT (A) to pass the impugned order.

5. The learned DR, on the other hand, has submitted that the assessee was not able to explain with reference to the documentary evidences about the negative cash balance and therefore, it would be appropriate, if the matter is remanded back to the file of the lower authorities for fresh adjudication of the issue.

6. We have considered the rival submissions and perused the material available on record. In our view, once the Assessing Officer in the remand report at page 7 & 8 reproduced herein above mentioned the documents furnished to the satisfaction of the Assessing Officer on the basis of which negative cash balance was arrived for an amount of Rs.35,48,735/-, then the learned CIT (A) need not require any explanation. However, the Bench asked from the learned Assessing Officer, to explain how negative cash balance has been arrived during the course of hearing, to which the learned DR who appeared virtually submitted that the matter may kindly be remitted back to the file of the Assessing Officer who will examine afresh and pass the appropriate orders to which the assessee has no objections. Since the assessee have no objection for remanding the matter back to the file of the Assessing Officer, in the light of the above, when both the parties have agreed for remand of the matter to the file of the Assessing

Officer, we remand all the appeals as well as the stay applications to the file of the Assessing Officer with a direction to consider the clarificatory remand report dated 25/11/2019 and decide the issue afresh. Needless to say, the Assessing Officer shall give cogent reason, in case the Assessing Officer wishes to deviate from the remand report dated 25/11/2019, otherwise, on the basis of this remand report, the Assessing Officer is hereby directed to pass the assessment order.

7. In the result, all the appeals filed by the assessee are allowed for statistical purposes.

8. Since we have remand all the appeals to the file of the Assessing Officer for fresh adjudication of the issue, the stay applications filed by the assessee have become infructuous. Hence, the stay applications filed by the assessee are dismissed.

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

Sd/-

Sd/-

(MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER	(LALIET KUMAE) JUDICIAL MEMBER
--	---

Hyderabad, dated 19th December, 2024

Vinodan/sps

Copy to:

S.No	Addresses
1	Shri Arun Kumar Dhondi Kubeer, Flat No.403, Premier Residency, 1-21/7/22 Near MJ Hospital, Armoor, Nizamabad
2	Income Tax Officer Ward 1 Nizamabad
3	Pr. CIT – Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order