

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A", HYDERABAD**

BEFORE

**SHRI LALIET KUMAR, JUDICIAL MEMBER
AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER**

ITA No.1715/Hyd/2019		
Assessment Year: 2013-14		
Mr. Jatan Raj Jain (Prop. Sri Kalyani Electro World), Secunderabad. PAN : ABAPJ3416C	Vs.	The Income Tax Officer, Ward – 10(3), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Shri Sunil Kumar Jain, C.A.	
Revenue by:	Shri Srinath Sadanala, Sr.D.R.	
Date of hearing:	18.12.2024	
Date of pronouncement:	30.12.2024	

ORDER

PER LALIET KUMAR, J.M:

This appeal is filed by the assessee feeling aggrieved by the order passed by the Commissioner of Income Tax (Appeals) – 6, Hyderabad dated 26.08.2019 for the AY 2013-14.

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

“1. In computing the total income, the learned assessing officer has erred in adding back the cash deposits of Rs. 5,03,170/- in assessee's personal bank account and the CIT(A)-6 upheld the same.

2. In computing the total income, the learned assessing officer has erred in adding back the capital introduced by the assessee in his proprietary concern of Rs. 5,00,000/-and the CIT(A)- 6 upheld the same.

3. In computing the total income, the learned assessing officer has erred in adding back the difference of Rs. 96,34,094/- in the bank balance as per the assessee's personal bank statement and as per assessee's balance sheet of the firm and the CIT(A)-6 upheld the same.

4. In computing the total income, the learned assessing officer has erred in adding back the unsecured loan of Rs. 12,67,000/- taken during the year and the CIT(A)-6 upheld the same.

5. The order has been passed by the CIT(A)-6 without giving the assessee opportunity of being heard even though adjournments were submitted stating that the health of the assessee is not good and some time was asked for making further submission. CIT(A)-6 has passed the order without giving Show Cause Notice also.”

3. The brief facts of the case are that assessee is an individual engaged in the business of Trading in Electronic Goods run in the name & style of the proprietary concern viz., M/s. Sri Kalyani Electroworld. The assessee is deriving income under various heads viz., Salaries, Income from house property, Income from other

sources and Profit and gains of business or profession. The assessee filed his return of income for the impugned AY 2013-14 on 30.09.2013 admitting a total income of Rs.10,06,130/-. The return was processed u/s. 143(1) of the Act and selected for Complete Scrutiny under CASS. Accordingly, the AO issued the statutory notices u/s. 143(2) and 142(1) of the Act and, after conducting hearings with the AR of the assessee, the assessment was completed, vide order u/s. 143(3) of the Act dated 29.02.2016, determining the total income of the assessee at Rs.1,36,95,385/-- While doing so, the AO made certain additions towards unsecured loan creditors, unexplained cash deposits etc and finally assessed the income at Rs.1,36,95,385/- and accordingly, passed assessment order u/s 143(3) of the Act on 29.02.2016.

4. Aggrieved with such assessment order, assessee filed an appeal before the LD.CIT(A), who granted part relief to the assessee.

5. Aggrieved with the order of LD.CIT(A), the assessee is now in appeal before us.

GROUND NO.1

6. With respect to ground no. 1, the Ld. AR submitted that the assessee has made cash deposits to the tune of ₹5,03,170/- in the HDFC Bank account held in an individual capacity out of the rents received by the HUF in cash. However, the Assessing Officer has not considered the same, and the Ld. CIT(A) has confirmed the addition made by the Assessing Officer. In this regard, the Ld. AR submitted that since the assessee has disclosed the source of income, the addition is required to be deleted.

7. Per contra, the Ld. DR submitted that before the Assessing Officer, the assessee has not disclosed any source of income, much less the rental receipts were received by the assessee for the HUF, to the satisfaction of the Assessing Officer, and therefore, the Assessing Officer and the Ld. CIT(A) were right in making the addition.

8. We have heard the rival submissions and perused the material on record. On perusal of the order of the Ld. CIT(A), more particularly para 6.3.6 of the order of the Ld. CIT(A), it is abundantly clear that the assessee has not been able to show the rental receipts in cash were received from the property owned by the HUF, and further, no documents have been produced either before us or before the Ld. CIT(A). Therefore, we do not find any reason to interfere with the addition made by the Assessing Officer

and confirmed by the Ld. CIT(A), and accordingly, the addition made in the hands of the assessee is upheld.

GROUND NO.2

9. This ground is with respect to adding back the capital introduced by the assessee in his proprietary concern of Rs.5,00,000/-. In this regard, ld.AR has drawn our attention page 3 of the order of Assessing Officer whereby the Assessing Officer has noted down the reason for introduction of capital by the assessee in his books of accounts. It was further submitted that on appeal, the Ld.CIT(A) has confirmed the addition and the findings of the Ld.CIT(A) are available in para 6.3.16 and 6.3.17 of the order, which is to the following effect :

“6.3.16 Besides, there is one more fallacy in the assessee's stand taken during the course of appellate proceedings. To be precise, as explained above, it is stated by the assessee that he introduced an aggregate amount of Rs.4,85,400/- on three specific dates i.e., 16.04.2012, 15.05.2012 and 30.05.2012. On the other hand, as per the ledger account of capital account filed by the assessee for the first time before the AD during the course of assessment proceedings, on the said dates there was no introduction of capital at all. This fact was already highlighted by way of giving an extract of entries culled out from the capital account for Rs 5,00,000/ in Para no. 6.3.10 above. As seen from the extract, it is clearly evident that the assessee had actually introduced capital by way of cash on various dates which are not at all matching with the dates on which the assessee had issued cheques favouring outside parties.

6.3.17 In view of the aforementioned factual matrix, it is conclusively proved that the assessee has tried to misrepresent the facts before the appellate authority with the mala fide intention to derive benefit in the form of deletion of additions and reduction in his taxable income, which is totally uncalled for warranting necessary penal action in terms of the provisions of the Act. In view of this, I do not find fault with the AO in

making the impugned addition to the extent of Rs.5,00,000/-. Thus, the ground of appeal raised by the assessee on this issue is dismissed.”

10. Per contra, Ld.DR submitted that this amount which was introduced by way of cash in the bank account was withdrawn by the assessee from the amount and therefore, the same was required to be deleted as no two additions for the same amount can be made i.e., one in the form of cash deposit and other in the form of capital.

10.1. The Ld.DR has drawn our attention to para 6.3.10 of the order of the LD.CIT(A) and submitted that the amount deposited by the assessee in the bank account are required to be reconciled with the amount withdrawn by the assessee from the bank account and thereafter, depositing the same in the bank account as capital contribution. It was submitted that both the withdrawal and deposits are not reconcilable, as both had not accrued at some point, and were not matching with each other.

11. We have heard the rival submissions and perused the material on record. We found that the reasoning given by the LD.CIT(A) in para 6.3.16 and 6.3.17 are apt and we do not want to interfere with the order of the LD.CIT(A) and further for ready reference, we have reproduced relevant paras hereinabove and accordingly, this ground is dismissed.

GROUND NO.3

12. This ground is with respect to addition made towards the difference in bank balance as per books and bank statement of the assessee to the extent of Rs.96,34,094/-. In this regard, assessee has drawn our attention to the order passed by the Assessing Officer and our attention was drawn to para 4 of the assessment order which is to the following effect :

“4. Difference in the Bank Balance shown in the Balance Sheet and Bank Statement: During verification the bank statements, it is noticed that the bank balance in the HDFC account No. 0924 was Rs. 96,98,344/-. As per the Balance sheet, the balance was shown at Rs. 64,250/-. When the same was pointed out vide the statement of the assessee recorded on 24.02.2016, the assessee along with his ARs Shri Sunil, CA and Shri Sanjay, CA have stated that they will submit the reconciliation shortly i.e. by 26.02.2016. On 26.02.2016, the assessee has submitted that HDFC Bank Account bearing No. 16401930000924 is the personal SB Account of Mr. Jathan Raj Jain. In respect of the same, only 4 entries of April were made in books of this firm. As this was his personal account, no further entries were made in books of firm. The same account may be treated as my personal capital account. As no further entries in respect of my personal account were made in the books, the balance is reflected as Rs. 64,250/-. The explanation of the assessee was not acceptable since the assessee vide his submissions dated 21.12.2015 and 8.02.2016 has clearly stated that he has not maintained Books of Accounts in individual capacity. It clearly shows that the assessee has no explanation and could not substantiate his claim. Hence, the difference of Rs. 96,34,094/- is added to the total income of the assessee for the A.Y. 2013-14.”

13. It was submitted before the LD.CIT(A) that the assessee has sought to explain the amount by submitting explanation that the amount was received by the assessee by way of redemption of FDR made in the year 2011. In the year 2011, the amount was received

by the assessee from the bank account of the mother of the assessee, out of her deposits on her demise. For that purposes, the assessee has drawn our attention to the receipt of FDR, bank statements and the deposits made by the mother of the assessee which are available at pages 37 to 39 of the paper book. It was submitted that once the assessee was able to explain the source of investment and the source of the amount for a sum of Rs.96,34,094/- then there is no reason for the Assessing Officer and the LD.CIT(A) to confirm the same.

14. On the other hand, the Ld.DR relied upon the orders of lower authorities.

15. We have heard the rival submissions and perused the material on record. Undoubtedly, in the present case, as per the bank statement dt.12.02.2013, there is an entry of redemption of Rs.1,18,02,223.49. If we look into the statements along with FDR receipts available at page 39 dated 19.01.2011, the monetary value of the amount has been mentioned as Rs.1,20,19,033.48 and this amount was received by the assessee on 19.01.2011 by way of transfer from the account of the mother, which is clear from page 38 of the paper book. From the above, we are of the opinion that assessee was able to prove the source of the amount shown in his bank account, which was added by the Assessing Officer and confirmed by the LD.CIT(A). In our considered opinion, the assessee was able to demonstrate the source of the FDR and also the source of the money that was credited in his bank account to

our satisfaction. In view of the above, we delete the addition of Rs.96,34,094/- in the hands of the assessee. Accordingly, ground no.3 of the assessee appeal is allowed.

GROUD NO.4.

16. The last ground raised by the assessee is with respect to unsecured loan amount of Rs.12,67,000/-. In this regard, ld.AR submitted that Rs.5,86,000/- was received from his own son namely, Si Atul (Sony) Jain and Rs.6,81,000/- was received from his niece namely Ms. Mithushi Jain. It was further submitted that the said amounts were given by them by redeeming the fixed deposits maintained with M/s. Vardhaman (Mahila) Co-operative Bank Ltd and for that purposes, the assessee has drawn our attention to the statement issued by Bank Mahaveer Co-op Urban Bank Limited and also the confirmation letters issued by those two persons.

17. Per contra, Ld.DR had objected to file the confirmation letters given by the creditors at this stage, as the same are required to be verified by the Assessing Officer and the bank and therefore, submitted that it would be appropriate to remand back the issue to the file of Assessing Officer.

18. We have heard the rival submissions and perused the material on record. The money was received by the assessee from his own son as well as the niece, however, the assessee was unable

to explain the same during the assessment proceedings and before the LD.CIT(A) and now the assessee has submitted confirmation letters which were not produced before the Assessing Officer as well as the LD.CIT(A) and also shown that the amounts were received from his son and niece through banking channels i.e., Bank Mahaveer Co-Op Urban Bank Ltd and the said bank has given the cheques to his son and niece on maturity of fixed deposits maintained with M/s. Vardhaman (Mahila) Co-operative Bank Ltd. In view of the above, we deem it appropriate to remand back the issue to the file of Assessing Officer for verification of the genuineness of the said confirmation letters, subject to cost of Rs.3,000/- (Rupees Three Thousand only) to be deposited in favour of Prime Minister National Relief Fund which shall be payable within two months or from the date of receipt of this order or whichever is earlier. Accordingly, the Assessing Officer is directed to examine the genuineness of the confirmation letters submitted by the assessee, along with the supporting evidence, including bank statements showing the maturity of fixed deposits and the receipt of funds through banking channels. The Assessing Officer shall decide this issue after providing a reasonable opportunity of hearing to the assessee and in accordance with law. Needless to say the assessee shall file all the necessary documents to substantiate his case. Thus, this ground of the assessee is allowed for statistical purposes.

19. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the Open Court on 30th December, 2024.

Sd/-

Sd/-

(MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER	(LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 30.12.2024.

TYNN/sps

Copy to:

S.No	Addresses
1	Mr. Jatan Raj Jain, (Prop: Sri Kalyani Electro World), 5-3-314, Lalji Meguji Compound, Jeera, Secunderabad – 500003.
2	The Income Tax Officer, Ward – 10(3), Hyderabad.
3	Pr.CIT - 6, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order