

INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM "SMC" BENCH : VISAKHAPATNAM

[THROUGH VIRTUAL HEARING]

BEFORE SHRI MANJUNATHA G, ACCOUNTANT MEMBER
AND
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

ITA.No.539/VIZ./2024
Assessment Year 2017-2018

Pasumarthi Chandrakanth, KODAD – 508 206. PAN AFHPC9919A (Appellant)	vs.	The DCIT(A), Central Circle-1, GUNTUR – 522 007. Andhra Pradesh (Respondent)
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For Assessee :	Shri YV Bhanu Narayana Rao
For Revenue :	Dr. Aparna Villuri, Sr. AR

Date of Hearing :	13.03.2025
Date of Pronouncement :	19.03.2025

ORDER

PER MANJUNATHA G, A.M. :

This appeal filed by the assessee has been directed against the order dated 25.10.2024, of the learned CIT(A)-12, Hyderabad, relating to assessment year 2017-2018.

2. Brief facts of the case are that, a search and seizure operation u/sec.132 of the Act was carried-out on the appellant on 30.08.2016. During the course of search in the residential premises of the assessee, cash of Rs.11,57,700/- was found. In his deposition, u/sec.131(1) of the Act on 03.11.2016, the assessee in answer to Question No.7 has stated that he is not maintaining any books of accounts at his residence and, therefore, offered Rs.11 lakh as his regular income for the financial year 2016-2017. Consequent to search, the assessee has filed return of income and admitted total income of Rs.14,93,080/- which includes additional income of Rs.11 lakhs admitted towards cash found during the course of search. The assessee has paid taxes at normal rates. The case of the assessee has been selected for scrutiny and during the course of assessment proceedings, the Assessing Officer after considering the relevant statement recorded from the assessee has assessed the additional income towards cash found during the course of search as unexplained money u/sec.69A of the Act.

3. On being aggrieved by the order of the Assessing Officer, the assessee filed an appeal before the learned CIT(A). The assessee submitted that except income from business, he does not have any other source of income and that the cash found during the course of search amounting to Rs.11 lakh is out of business income and, therefore, the assessee has rightly offered the income under the Head "Income from Business". The Assessing Officer without appreciating the relevant facts, simply assessed the additional income as unexplained money and brought to tax u/sec.115BBE of the Act. The learned CIT(A) after considering relevant submissions of the assessee and also by taking into consideration of the provisions of u/sec.115BBE of the Act and certain judicial precedents held that going by the statement recorded during the course of search, it is very clear that the assessee is not able to explain the source for cash found during the course of search with regular books of accounts and thus, there is no error in the reasons given by the Assessing Officer to assess

the additional income of Rs.11 lakh u/sec.69A read with u/sec.115BBE of the Income Tax Act 1961.

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

5. Learned Counsel for the Assessee submitted that learned CIT(A) erred in upholding the reasons given by the Assessing Officer to assess the additional income offered by the assessee under the head "Income from business" as unexplained money and brought to tax u/sec.115BBE of the Act, without appreciating the fact that, except income from business, the assessee does not have any other source of income. Learned Counsel for the Assessee further referring to statement recorded from the assessee submitted that the assessee stated that he does not maintain books of accounts in his residence. The fact remains that the assessee was into business of trading in consumer products and has maintained regular books of accounts. Although, the assessee has furnished all relevant details, the learned CIT(A) ignoring the evidence filed by the assessee had

uphold the reasons given by the Assessing Officer. Therefore, he submitted that addition made by the Assessing Officer towards additional income u/sec.69A read with section 115BBE of the Act should be deleted.

6. Learned Sr. DR Dr. Aparna Villuri, supporting the order of the learned CIT(A) submitted that there is no dispute with regard to the fact that the assessee has not maintained any books of accounts which is evident from the statement recorded from the assessee during the course of search and in absence of any explanation, the Assessing Officer has rightly treated the additional income as unexplained money u/sec.69A and rightly brought to tax u/sec.115 BBE of the Act. Therefore, she submitted that the order of the CIT(A) in sustaining the order of the Assessing Officer should be upheld.

7. We have heard both the parties, perused the material on record and gone through the orders of the authorities below. There is no dispute with regard to the fact of seizure of cash at Rs.11 lakhs from the residence of

the assessee and the admission of the assessee as additional income for the current financial year. In fact, going by the statement recorded from the assessee, the assessee has very clearly admitted the additional income of Rs.11 lakhs as his regular income for the financial year 2016-17. The only dispute is with regard to whether the said additional income is 'an income generated from the business or profession or unexplained money of the assessee'. Going by the evidences filled by the assessee, there is no dispute with regard to the fact that the assessee was into business of dealing consumer products and except income from business and that the assessee does not have any other source of income. Further, even in the statement, the assessee does not say that he never maintained any books of accounts for his business activity. However, the assessee only stated that there is no books of accounts at his residence to explain the cash found during the course of search. Therefore, the reasons given by the Assessing Officer only on the basis of statement recorded from the assessee that additional income shown in the return of income filed

in pursuance to search as unexplained money taxable u/sec.69A of the Act cannot be upheld. Further, the assessee has filed various evidences to prove that additional income offered during the course of search is generated out of his business activity which is assessable under the Head “Income from Business”. Although, the assessee reported additional income under the head “Income from other sources” but the Learned Counsel for the Assessee has explained the reasons that if we add additional income in the regular sales, then, the gross profit and net profit declared for the year under consideration may show a distorted figure which may be difficult for the assessee to explain in subsequent year, if need arises. Therefore, we are of the considered view, only for the reason of the assessee offering the income under the Head “Income from other sources”, it cannot be said that the said income is unexplained money of the assessee and taxable u/sec.69A of the Act. This principle is supported by the decision of ITAT, Hyderabad Bench, Hyderabad in the case of Shri Bal Reddy Kandunuri vs. ACIT, Central Circle-2(4), Hyderabad

in ITA.Nos.1202 and 1203/Hyd/2024, order dated 28.01.2025 wherein an identical issue has been considered by the Tribunal and held that *additional income offered during the course of search needs to be assessed as 'Income from business or profession'*. Similar view has been taken by the ITAT, Hyderabad Bench, Hyderabad in the case of Shri Mohd. Mujeeb UR Rahman vs. ACIT, Central Circle-2(2), Hyderabad in ITA.No.357/Hyd/2022 vide order dated 19.10.2023.

8. Considering the facts of the case and also following the decision of Coordinate Bench of ITAT Hyderabad Tribunal referred to hearinabove, we are of the considered view that, Assessing Officer has erred in law in assessing the additional income of Rs.11 lakh as unexplained money u/sec.69A and brought to tax u/sec.115BBE of the Income Tax Act, 1961. The learned CIT(A) without appreciating the relevant facts, simply sustained the addition made by the Assessing Officer. Thus, we set aside the order of the learned CIT(A) and direct the

Assessing Officer to assess the additional income of Rs.11 lakhs offered by the assessee as his business income and treat income under the normal course of business or profession and tax at normal rate of tax instead of u/sec.115BBE of the Income Tax Act, 1961.

8. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 19.03.2025.

Sd/-
[K. NARASIMHA CHARY]
JUDICIAL MEMBER

Sd/-
[MANJUNATHA G]
ACCOUNTANT MEMBER

Hyderabad, Dated 19th March, 2025

VBP

Copy to

1.	Pasumarthi Chandrakanth, H.No.10-29/A, Suryapet Road, KODAD – 508 206. Telangana.
2.	The DCIT(A), Central Circle-1, Rajkamal Complex, 3 rd Floor, Lakshmipuram, GUNTUR – 522 007. Andhra Pradesh
3.	The Pr. CIT(A), Vijayawada.
4.	The DR ITAT “SMC” Bench, Visakhapatnam.
5.	Guard File

//By Order//

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