

**IN THE INCOME TAX APPELLATE TRIBUNAL  
Hyderabad ' B ' Bench, Hyderabad**

**Before Smt. P. Madhavi Devi, Judicial Member  
AND  
Shri B. Ramakotaiah, Accountant Member**

**ITA No.1402/Hyd/2014**  
(Assessment Year: 2010-11)

Shri Goutam Ganeshmalji Jain Hyderabad PAN: ACJPJ 5371 J (Appellant)	Vs	ITO Ward 7 ( 4 ) Hyderabad  (Respondent)
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For Assessee :	Shri D. Balaji
For Revenue :	Shri L. Ramji Rao, DR

Date of Hearing:	24.10.2017
Date of Pronouncement:	03.11.2017

**ORDER**

**Per Smt. P. Madhavi Devi, J.M.**

This is assessee's appeal for the A.Y 2010-11. In this appeal, the assessee is aggrieved by the order of the learned CIT (A)-VI, Hyderabad, dated 19.05.2014 confirming the addition of Rs.11,80,500 made by the AO towards unexplained credits into his account held with the Syndicate Bank.

2. Brief facts of the case are that the assessee, an individual, filed his return of income for the A.Y 2010-11 on 30.07.2010 admitting income of Rs.1,53,830 after claiming deduction of Rs.43,500 under Chapter VIA of the Act. The case was selected for scrutiny through CASS. During the assessment proceedings u/s 143(3) of the Act, the assessee was directed to file

brief narration of sources for deposits and destination of withdrawal of funds as appearing in his Syndicate Bank A/c.

3. The assessee submitted that these deposits represent the sundry advances received back. The AO observed that the assessee did not furnish the name and complete mailing address of the parties from whom such advances were stated to have been received back, the dates of lending, mode of lending, amount lent, dates of receipts of such loans and sources of receipts etc. The assessee filed a letter on 30.01.2013 giving the names of the eight parties, their addresses and the amounts stated to have been received from them. The other details such as actual dates of lending the money, mode of lending amount along with the dates of receiving back of such loan amount were not furnished. The AO, therefore, addressed a letter directly to the eight parties calling for the details along with their PAN and assessment details. In respect of two parties i.e. (a) Shri Jeevan Singh, Mandaver (Raj.) and (b) Sri Mool Singh, Mandaver (Raj.), the notices were returned unserved and in two cases i.e. (a) Sri Shivaji Appanna Todkar and (b) Sri Dinesh Chandra Nagla the confirmations were received and in the remaining cases, there was no response. The assessee was therefore, asked to produce those eight parties from whom the assessee has stated to have received back sundry advances, for examination. The assessee, however, did not produce even a single party for examination, nor did he express his inability to produce them. In view of the same, the AO treated the entire cash deposits of Rs.11,80,500 on various dates into the assessee's

bank A/c with Syndicate Bank as unexplained cash credits and brought it to tax.

4. Aggrieved, the assessee preferred an appeal before the CIT (A) who confirmed the order of the AO by observing that the assessee is not maintaining any books of account and has only furnished confirmations from few parties but has not established the identity or genuineness of the transactions. Aggrieved, the assessee is in second appeal before us.

5. The learned Counsel for the assessee, while reiterating the submissions made by the assessee before the authorities below, submitted that these cash deposits represent the repayment of loan and advances given by the assessee to the eight parties in the earlier A.Y. He has also filed before us, the copy of the confirmation letters particularly from one Mr. Motilal, giving his complete postal address to state that the assessee has furnished the correct address of the parties. He also filed the copies of the statement of the assessee for the preceding three years wherein these parties are shown as sundry debtors. The learned Counsel for the assessee submitted that the assessee should be given an opportunity to substantiate his claim, as according to him, the AO and the CIT (A) have not considered the confirmation letters filed by the respective parties and also the assessee's accounts for the earlier financial years wherein the said parties are shown as sundry debtors.

6. The learned DR, on the other hand, submitted that the assessee has not produced either the parties to establish their identity nor any evidence such as an agreement for lending of money, to establish the identity of the parties and the genuineness of the transactions. He submitted that all the deposits are cash deposits and therefore, the onus was on the assessee to establish the nature and source of such deposits and the assessee has failed to establish the same either before the AO or before the CIT (A).

7. Having regard to the rival contentions and the material on record, we find, that there were cash deposits into the assessee's bank a/c held with the Syndicate Bank. The assessee was directed to explain the nature of the deposits along with the address of the parties and other details. The assessee, except for filing the confirmation letters, failed to fulfil the other requirements u/s 68 of the I.T. Act. The assessee did not produce even a single party for examination before the AO. As pointed out by the CIT (A), the assessee has not been maintaining any books of account and therefore, the assessee's contention that these parties were his sundry debtors from the earlier A.Ys is not borne by any evidence. In such circumstances, the onus was on the assessee to establish its claim with evidence, particularly when the notices could not be served on two parties on the addresses given by the assessee and where the other parties did not respond to the notices. Even in the cases, where the notices were served and confirmations were filed, but only the identity has been proved but not the genuineness of the transaction. Both the requirements of section 68 have to be fulfilled. In order to prove

the genuineness of the loan transactions, the assessee could have produced proof of some receipt of interest. But we find that the assessee has not reflected any interest income from these parties and therefore, his contention that they were sundry debtors from whom the money has been received back is not credible. We also do not find any reason to remit the issue back to the file of the AO or the CIT (A) for the simple reason that the assessee has not filed any evidence to substantiate his claim even before us. The evidence which has now been filed before us was already filed before the lower authorities and has already been considered by them. No useful purpose would be served by sending the matter back to the file of the AO at this stage. Therefore, we see no reason to interfere with the order of the CIT (A) on this issue. The assessee's appeal is therefore, dismissed.

8. In the result, assessee's appeal is dismissed.

Order pronounced in the Open Court on 3<sup>rd</sup> November, 2017.

**Sd/-**  
**(B. Ramakotaiah)**  
**Accountant Member**

**Sd/-**  
**(P. Madhavi Devi)**  
**Judicial Member**

Hyderabad, dated 3<sup>rd</sup> November, 2017.  
**Vinodan/sps**

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500028
- 3 CIT (A)-VI Hyderabad
- 4 CIT – VI Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

*By Order*