

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

Before Shri R. K. PANDA, ACCOUNTANT MEMBER

ITA No.183/Hyd/2022		
Assessment Year: 2017-18		
Smt. Vijaya Lakshmi Kammela, Hyderabad PAN:AEMPK0490G	Vs.	Income Tax Officer Ward 13(2) Hyderabad
(Appellant)		(Respondent)
Assessee by:	Sri D.V.Anjaneyulu	
Revenue by:	Sri Y. Sesha Srinivas, DR	
Date of hearing:	12/07/2022	
Date of pronouncement:	14/07/2022	

ORDER

This appeal filed by the assessee is directed against the order dated 25.02.2022 of the learned CIT(A)-NFAC Delhi, relating to A.Y 2017-18.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the order of the CIT(A)-NFAC in sustaining the addition of Rs.4,72,523/- made by the Assessing Officer u/s 69A of the I.T. Act.

3. There is a delay of 93 days in filing of this appeal for which the assessee has filed a condonation application along with affidavit explaining the reasons for delay which is on account of the pandemic. After considering the contents of the condonation application and after hearing the learned DR, the delay in filing of

this appeal is condoned and the appeal is admitted for adjudication.

4. Facts of the case, in brief, are that the assessee is an individual filed his return of income for the A.Y 2017-18 on 31/07/2017 declaring total income of Rs.3,88,510/-. During the course of assessment proceedings, the Assessing Officer noticed that the assessee has made cash deposit of Rs.11,14,477/- in her savings bank a/c maintained with State Bank of Hyderabad. On being asked by the Assessing Officer to explain the source of such deposit, the assessee replied that the cash deposit relates to the past savings and part of the amount received from sundry debtors and loans and advances and submitted a list of persons with name & their addresses and against their names the amounts were reported. The Assessing Officer, thereafter, asked the assessee to explain the source of cash deposits along with relevant documentary evidence. The assessee submitted confirmation letters from all the persons mentioned in the list provided earlier which amount to Rs.3,54,477/-. The Assessing Officer, therefore, accepted the above amount as available for deposit in the Bank A/c. So far as the balance amount of Rs.7,60,000/- is concerned, the assessee explained that the same is deposited out of her personal savings. The assessee explained that the total cash withdrawals since financial years 2013-14 to 2016-17 was Rs.9,94,862/- and out of such withdrawal, the assessee deposited an amount of Rs.7,60,000/- during the demonetization period. However, the Assessing Officer noted from the Bank A/c submitted by the assessee that all the withdrawals are small withdrawals only and there are no major withdrawals seen in her bank A/c. According to the Assessing Officer, small withdrawals might have been used by the assessee for her day-to-

day expenses. He therefore, rejected the explanation of the assessee that the prior withdrawals made earlier were available for deposit in the Bank A/c. Considering the fact that the assessee is a pensioner and old age person and the assessee might have saved and kept some amount with her in cash, the Assessing Officer held that an amount of Rs.2,50,000/- is available with her out of the amount of Rs.7,60,000/-. Accordingly, the Assessing Officer made an addition of Rs.4,72,523/- as unexplained money u/s 69A of the I.T. Act.

5. In appeal, the CIT(A)-NFAC upheld the addition made by the Assessing Officer by observing as under:

“4.3 I have carefully gone through the assessment order as well as the submissions made by the appellant. It is an undisputed fact that the appellant has made cash deposit soon after the demonetization. One of the purposes of demonetization was to flush out unaccounted cash. In this background the income tax dept. had conducted many enquiries in cases where, cash was found to be deposited in bank accounts. In her submission the appellant has tried to explain the source of cash as coming out of the past savings and partly out of realization of loan and advances. AO has demonstrated that the explanation is not acceptable. On this issue the AO has made the following remarks

On perusal of the bank account submitted by her it is noticed that all withdrawals are small withdrawals only. There are no major withdrawals seen in her bank account. These small withdrawals might have used for day-to-day expenses. The prior withdrawals in earlier years in small quantum cannot be considered as sources of cash deposits during demonetization period. Therefore, assessee's explanation is not acceptable. . However, keeping in view that assessee is a pensioner and old aged person, and assessee might have saved and kept with her some amount in cash, an amount of Rs. 2,50,000/. is allowed as cash balance available with her for cash deposit during the demonetization period and the balance amount of cash deposit of Rs. 4,72,523/-is treated as unexplained money u/s 69A of the Income Tax Act, 1961 and added to the total income of the assessee for the A.V. 2017-18 and taxed as per the provisions of the Income Tax Act, 1961.

4.4 It is seen that the AD has already accepted Rs. 2,50,000 as explained as per the CBDT instruction no. 3 of 2017. The AD has also examined the confirmation of debtors. Thus, on this issue I find merit in the arguments of the AD. It is clear that the appellant is not able to explain cash amounting to Rs.4,72,523 out of her past withdrawals from bank. After considering the totality of facts it is held the order of the AO needs no interference. Consequently, the addition made by the AO is confirmed and the grounds of appeal nos. 1 to 4 are dismissed.

5. In the result, the appeal is Dismissed.

6. Aggrieved with such order of the CIT(A)-NFAC, the assessee is in appeal before the Tribunal.

7. The learned Counsel for the assessee strongly challenged the order of the CIT(A)-NFAC in sustaining the addition of Rs.4,72,523/- made by the Assessing Officer. He submitted that the assessee is a senior citizen and retired employee deriving income from pension and income from other sources. He submitted that the assessee during the demonetization period had deposited an amount of Rs. 11,14,477/- in her savings bank a/c maintained with State Bank of Hyderabad out of which the Assessing Officer accepted the amount of Rs.3,54,477/- being the amount obtained from various persons to whom the assessee had given loans and advances. So far as the balance amount of Rs.7,22,523/- is concerned, the Assessing Officer allowed only Rs.2,50,000/- as available to the assessee, although the assessee had explained that she had withdrawn an amount of Rs.9,94,862/- from the Bank A/c since less than two years prior to the demonetization period and part of it is available with her to deposit in the Bank A/c. He submitted that since the assessee is a very old person, she was keeping the money with her for any emergency and therefore, sustaining the addition without

considering the factual matrix amounts to grave injustice to the assessee. Further there is no occasion in the assessee's family to spend such huge amount which was withdrawn from the Bank earlier. He accordingly submitted that in the interest of justice, the addition made by the Assessing Officer and sustained by the CIT(A)-NFAC should be deleted. The learned Counsel for the assessee also relied on various decisions.

8. The learned DR, on the other hand, strongly supported the orders of the Assessing Officer and the CIT(A)-NFAC. He submitted that the assessee has deposited huge cash amount during demonetization period and the Assessing Officer has already accepted the amounts given as loans and advances to the extent of Rs.4,72,523/- and has given a further credit of Rs.2,50,000/-. The assessee could not explain the sources properly for which the CIT(A)-NFAC has upheld the action of the Assessing Officer and sustained the balance addition of Rs.4,72,523/- which is fully justified under the facts and circumstances of the case.

9. I have considered the rival arguments made by both the sides, perused the orders of the AO and the CIT (A)-NFAC and the paper book filed on behalf of the assessee. I have also considered the various decisions cited before me by both sides. I find the AO in the instant case made addition of Rs.4,72,523/- as unexplained money u/s 69A of the Act out of the cash deposit of Rs.11,14,477/- made by the assessee as cash deposit in the Bank A/c during the demonetization period. The Assessing Officer made the addition on the ground that the assessee could not explain satisfactorily the source of Rs.4,72,523/- According to the

Assessing Officer, the explanation of the assessee that the earlier withdrawal of Rs.9,94,862/- during the financial years 2013-14 to 2016-17 is available for deposit and Rs.7,60,000/- is not acceptable in view of the periodical small withdrawals which is meant for day-today expenses of the assessee. I find the CIT(A)-NFAC upheld the action of the Assessing Officer, the reasons of which have already been reproduced in the preceding paragraphs. It is the submission of the learned Counsel for the assessee that the assessee is an old lady of 82 years of age as of now and she had deposited the amount of Rs.11,14,477/- out of the amount received from various creditors amounting to of Rs.3,54,477/- out of the loans and advances given earlier and the balance amount of Rs.7,60,000/- is deposited out of the past savings and past withdrawals made from the Bank amounting to Rs.9,94,862/-. It is his submission that the assessee used to keep the money with her for any emergency requirement considering her age.

10. I find some force in the above arguments of the learned Counsel for the assessee. It is common in our society that old ladies sometimes keep cash with them for various reasons including for medical emergencies. The assessee in the instant case is an old lady and deriving income from pension. The Assessing Officer in the instant case has given a credit of Rs.2,50,000/- only and made the addition of Rs.4,72,523/- by treating the past withdrawals from the Bank A/c as not available to the assessee. However, nothing has been brought on record that the assessee had spent any huge amount for acquisition of any asset or for performing of any functions such as marriage etc., in the family by spending huge money. Therefore, in my opinion, there is some force in the argument of the learned

Counsel for the assessee that the part of Rs.9,94,862/- which was withdrawn from the Bank in the past two years will be available to the assessee for making the deposit of Rs.7,60,000/- during the demonetization period. Therefore, the Assessing Officer as well as the CIT (A)-NFAC, in my opinion, are not justified in accepting only Rs.2,50,000/- as available and thereby sustaining the balance amount of Rs.4,72,523/-. Accordingly, I set aside the order of the CIT(A)-NFAC and direct the Assessing Officer to delete addition made him. The grounds raised by the assessee are accordingly allowed.

11. In the result, appeal filed by the assessee is allowed.

Order pronounced in the Open Court on 14th July, 2022.

Sd/-

(R. K. PANDA)
ACCOUNTANT MEMBER

Hyderabad, dated 14th July, 2022.

Vinodan/sps

Copy to:

S.No	Addresses
1	Smt.Vijaya Lakshmi Kammela C/o M/s.Anjaneyulu & Co.C.A, 30 Bhagyalakshmi Nagar, Gandhinagar, Hyderabad 500080
2	Income Tax Officer Ward 13(2) Hyderabad
3	CIT (A)-NFAC, Delhi
4	Pr. CIT - Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order