

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

**Before Shri Rama Kanta Panda, Accountant Member**

*AND*

**Shri Laliet Kumar, Judicial Member**

ITA No.230/Hyd/2022		
Assessment Year: 2017-18		
Talla Laxmi 1-11-253, Motilal nagar Begumpet Hyderabad-500 016  PAN : AASPT8106C	Vs.	ACIT,Circle-10(1) I.T.Towers A.C.Guards, Masab Tank Hyderabad-500 029
(Appellant)		(Respondent)
Assessee by:		Shri K.C.Devdas, CA
Revenue by:		Shri Kumar Aditya, Sr.AR
Date of hearing:		19.10.2022
Date of pronouncement:		19.10.2022

**ORDER**

**Per Shri Rama Kanta Panda, A.M.**

This appeal filed by the assessee is directed against the order dated 01.11.2021 of the Learned Principal Commissioner of Income Tax (Appeals), National Faceless Appeal Centre(NFAC),Delhi relating to AY 2017-18.

2. There is a delay of '153' days in filing of this appeal by the assessee for which a condonation application along with affidavit has been filed explaining the reasons for such delay which is due to the pandemic. After hearing both the sides and following the decision of Hon'ble Supreme Court in the case of suo moto proceedings in the case of M.A.No 21 of 2022 and in M.A.665 of 2021 in suo moto writ petition (c) No. 3 of 2020 vide order dated 10.1.2022, the delay in filing of this appeal by the assessee is condoned and the appeal is admitted for adjudication.

3. Facts of the case, in brief, are that the assessee is an individual and filed her return of income on 30.10.2017 declaring total income of Rs.13,31,480/-. The case was selected for limited scrutiny under CASS. Statutory notices u/s. 143(2) and 142(1) were issued and served on the assessee to which the AR of the assessee appeared before the AO and filed the details as called for. During the course of assessment proceedings, the AO noted that assessee has deposited cash of Rs.4,98,80,200/- during demonetization period, which is not in proportion to the total income of the assessee from all the heads. Therefore, he asked the assessee to explain the source of such deposit in the bank. It was submitted by the assessee that her source of income is rental receipt and the bank account was held by herself, her husband and her in-laws. It was explained that the cash deposited in bank was out of surplus funds available with her. It was also submitted that the statement of the receipts and payments were submitted and she voluntarily offered Rs.1,50,00,000/- under PMGKY, 2016 and paid tax, surcharge and penalty of Rs.74,85,000/-. The assessee furnished the abstract of cash year wise commencing from FY 2006-07 for the entire Talla family and also the bank statements for the FY 2006-07 to 2016-17. The assessee filed the abstract of cash, explaining the source of income, which is as under:-

1.Sale consideration received in cash	Rs. 51,48,000
2.Rental receipts in cash from FY 2006-07 to 2016-17	Rs.1,78,10,234
1.Cash withdrawal from bank FY 2006-07 to 2016-17	Rs.3,40,13,000
2.Rental advances	Rs. 26,43,000
3.Expenditure	(-)Rs.1,33,50,619
<b>Balance cash available in hand</b>	<b><u>Rs.4,95,21,101</u></b>

4. However, the AO was not satisfied with the arguments advanced by the assessee. So far as the sale consideration received in cash at Rs.51,48,000/- is concerned, it was explained that the same is on account of sale of land on 14.07.2016.

However, since the assessee submitted that the sale proceedings were invested in capital gain bonds, the AO did not consider the amount of Rs.51,48,000/- as available towards cash deposited in the bank account. So far as the rental receipt of Rs.1,78,10,234/- is concerned, the AO noted that in spite of affording sufficient time the assessee failed to furnish the details of rent receipt as advanced and supporting documentary evidence. He, therefore, did not consider the rental advance of Rs.26,43,000/-. The AO, thereafter determined the income at Rs.3,20,19,300/- by observing as under:-

Total cash deposited during the demonetization period	Rs.4,98,700
Less:Amount admitted under PMGKY	<u>Rs.1,50,00,000</u>
	Rs.3,48,80,700
Less:Rental income considered for the six months	<u>28,61,400</u>
Income determined as unexplained	<b><u>3,20,19,300</u></b>
 Addition u/s. 69A of the Act	 <b><u>Rs.3,20,19,300</u></b>

5. The ld.CIT(A), NFAC dismissed the appeal by observing as under:-

*"Considered the observations of the Assessing Officer and the submission made by the appellant. The Assessing Officer found that the appellant had deposited cash of Rs.68,52,000/- consisting denomination of Rs.500/- and Rs.1000/- into Current Account during demonetization period from 09.11.2016 to 31 .12.2016. Further, he also found that two Term Loan accounts maintained with the Kolhapur Urban co-operative Bank Ltd were deposited with cash of Rs.2,01,000/- Rs.2.65.000/- and Rs.98,000/- on 15.11.2016 & 09.12.2016 respectively. As regards the source of the above cash deposits, the appellant had submitted that the same was out of receipts from farmers and debtors and deposits by the partners. Besides show cause notice dated 19.11.2019 was issued by the Assessing Officer to the appellant, to produce ledger account extract and details of identity, Aadhar card. PAN card of parties from whom such cash was received. The appellant had produced the details and confirmation required by the Assessing Officer. It was found that only during the demonetization period, the appellant ha deposited heavy cash. Though, the appellant had provided details of identity, the genuineness of transaction of cash deposits during demonetization period was not proved.*

*Since the appellant failed to prove the genuinity of transaction, the Assessing Officer has rightly considered it as the unexplained money in*

*the hands of the appellant. In view of the above, the addition of rs.74,30,550/- made u/s. 69A of the I.T.Act by the AO is confirmed. The appellant fails on this ground. As a result, the appeal is dismissed.”*

6. Aggrieved with such order of the Ld.CIT(A), NFAC, the assessee is in appeal before the Tribunal by raising the following grounds.

1. *The ld.CIT(A), NFAC center has erred in passing the order u/s. 250. The decision in the order is not pertaining to the appellant.*
2. *Any other ground or ground(s) that may be urged at the time of hearing of appeal.*

7. The ld. Counsel for the assessee, at the time of hearing strongly objected to the order passed by the ld.CIT(A), NFAC and submitted that the ld.CIT(A),NFAC has cut copy and pasted the order in case of somebody else while deciding the appeal of the assessee. Therefore, the order of the ld.CIT(A), NFAC should be quashed and the addition made by the AO should be deleted.

8. The ld. DR on the other hand, submitted that although the order of the ld.CIT(A),NFAC does not pertain to the assessee, while giving his finding, however, in the interest of justice, the matter should be restored to the file of the ld.CIT(A) to pass appropriate order.

9. We have heard the rival arguments made by both the sides, perused the orders of the AO and ld.CIT(A),NFAC and the paper book filed on behalf of the assessee. We find the AO in the instant case made addition of Rs.3,20,19,300/- on the ground that assessee could not explain the source of cash deposit of Rs.4,98,80,200/- during the demonetization period fully. Therefore, after considering the amount admitted under PMGKY at Rs.1,50,00,000/- and the rental income considered for six months at Rs.28,61,400/-, the AO made addition of Rs.3,20,19,300/- as unexplained cash deposit u/s.69A of the

I.T.Act. We find the ld.CIT(A) dismissed the appeal filed by the assessee, the reasons of which have already been reproduced in the preceding paragraph. It is the submission of the ld. Counsel for the assessee that since the findings in the order of the ld.CIT(A) does not pertain to the assessee, the said order should be set aside and the addition made by the AO should be deleted. It is the submission of the ld. DR that matter may be restored back to the file of the ld.CIT(A) with a direction to pass speaking order.

10. As per the provisions of section 250(6), the order of the ld.CIT(A) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision. However, a perusal of the order of the ld.CIT(A) shows that while giving his decision at para 4 of the order, he has cut copy and pasted the decision in case of some other person and the same does not pertain to the assessee. We deprecate this type of practice and casual approach of the ld.CIT(A)/NFAC while passing the order. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the ld.CIT(A)/NFAC with a direction to decide the appeal afresh by applying his mind carefully and not to cut paste the order in case of some other person. Needless to say, the ld.CIT(A)/NFAC shall give due opportunity of being heard to the assessee and decide the appeal as per fact and law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the Open Court on 19<sup>th</sup> October, 2022.

<b>Sd/-</b> <b>(LALIET KUMAR)</b> <b>JUDICIAL MEMBER</b>	<b>Sd/-</b> <b>(RAMA KANTA PANDA)</b> <b>ACCOUNTANT MEMBER</b>
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Hyderabad, dated 19<sup>th</sup> October, 2022.

***Thirumalesh/sps***

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2	ACIT, Circle-10(1) I.T.Towers A.C.Guards, Masab Tank Hyderabad-500 029
3	CIT(A), Hyderabad
4	NFAC, Delhi
5	DR, ITAT Hyderabad Benches
6	Guard File

*By Order*