

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

BEFORE SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 256/Hyd/2022
(निर्धारण वर्ष / Assessment Year: 2017-18)

Kashinath Homkar, ITO, Ward-4(3),
Hyderabad Vs. Hyderabad
[PAN No. AASPH7443N]

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा / Assessee by: Shri Kumar Pal Tated, AR
राजस्व द्वारा / Revenue by: Shri T. Venkanna, DR

सुनवाई की तारीख/Date of hearing: 07/12/2022
घोषणा की तारीख/Pronouncement on: 07/12/2022

आदेश / ORDER

Aggrieved by the order dated 04/05/2022 passed by the learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Kashinath Homkar ("the assessee") for the assessment year 2017-18, assessee preferred this appeal.

2. Assessee is an individual and was aged about 76 years in the relevant year. It is submitted by the learned AR that the wife of the assessee was no more and as in the relevant year, he has two daughters, one of whom was a differently abled. Assessee and his daughter were labouring under a constant fear of medical emergency and, therefore, they were keeping good amount of monies with them to meet any contingency.

Learned AR submitted that having bitter experience with the Charminar Bank episode, wherein many investors were left in lurch, as and when the Fixed Deposit Receipts (FDRs) were maturing, the assessee started keeping money with him due to fear of losing the same if again deposited in the banks.

3. The assessee filed the return of income for the assessment year 2017-18 on 10/08/2017 declaring gross total income of Rs. 5,28,427/-. During the course of assessment, learned Assessing Officer noticed that certain deposits were made in the accounts of the assessee during the period of demonetization that is subsequent to 08/11/2016 and before 31/12/2016. Such deposits were to the tune of Rs. 17,81,150/-. Assessee explained that the cash deposits were made out of the cumulative savings received as retirement benefits of the assessee's deceased wife and also from the family savings apart from the amounts of the daughters, who were retired. Learned Assessing Officer did not believe the explanation of the assessee and proceeded to make the addition of Rs. 17,81,150/-.

4. When the assessee preferred appeal, the learned CIT (A) noted that assessee was of the age of 82 years having no other source of income, except the rents which were to be shared between the assessee and his daughters; and that there were withdrawals of sums by the assessee from various banks to the tune of Rs. 24.25 lakhs between 2014 and 2016 whereas the cash deposits made by the assessee during the demonetization period were amounting to Rs. 28,07,150/-. According to the learned CIT(A), the withdrawals made by the assessee could have been utilised by the assessee for livelihood during such period and, therefore, the deposits go un-explained. On this premise, learned CIT(A) confirmed the additions.

5. Assessee is before me in this appeal, stating that even according the learned CIT(A), there were withdrawals by the assessee during the earlier period and according to the learned AR, such were the withdrawals on the

amounts on maturing of FDRs which were not deposited again in the banks due to the fear of assessee having bitter experiences with Charminar Bank episode. Further according to the learned AR, there was a reason for the assessee to keep huge amounts with him because of the dire medical necessity which is contingent at any time in view of the old age of the assessee and the health conditions of his daughters. Learned AR further submitted that there is a factual error in the order of the learned CIT(A) that the assessee deposited an amount of Rs. 28,07,150/- during the demonetization period which is in fact an error in fact because the learned Assessing Officer himself noted that the deposits during demonetization period were only to the tune of Rs. 17,81,150/-. According to the learned AR, this factual error could not have been crept in in the order of the learned CIT(A), because, the details of the bank accounts in their entirety were not sought by the authorities below and the assessee also did not produce the account pass books before the authorities. He, therefore, submits that given an opportunity, the assessee is willing to produce all the relevant records before the learned Assessing Officer to reconcile the withdrawals and deposits in the light of the dire necessity of the assessee to keep huge amounts with him to meet the medical necessities, which are likely to arise at any moment.

6. Learned DR fairly concedes the request of the learned AR to set aside the issue to the file of learned Assessing Officer for factual verification to take a plausible view in accordance with law.

7. Having gone through the record in the light of the submissions made by the learned AR, I do not find any reason not to allow the request made on behalf of the assessee. The fact remains that the assessee was lingering under apprehension of medical necessities at any moment and also that the assessee can establish with reference to the record that as and when the FDRs were not matured, the amount was kept with the assessee for valid reasons. I, therefore, set aside the impugned order and restore the issue to the file of learned Assessing Officer to go through the

bank account details as would be furnished by the assessee and also the attendant circumstances. It is made clear that it is the last opportunity to the assessee to establish their case before the learned Assessing Officer. Ground is accordingly treated as allowed for statistical purposes.

8. In the result, appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on this the 7th day of December, 2022.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 07/12/2022

TNMM

Copy forwarded to:

1. Kashinath Homkar, 2-4-539, SPL C242, CIB Quarters, Kacheguda, Hyderabad.
2. Income Tax Officer, Ward-4(3), Hyderabad.
3. NFAC-Delhi.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ITAT, HYDERABAD