

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. 665/Hyd/2022
(निर्धारण वर्ष / Assessment Year: 2017-18)

Sampath Rao Dudapaka, Income Tax Officer,
Hanmakonda Vs. Ward-4,
[PAN No. ANSPD6934D] Warangal

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा / Assessee by: Shri K.A.Sai Prasad, AR
राजस्व द्वारा / Revenue by: Shri B. Yadagiri, DR

सुनवाई की तारीख/Date of hearing: 04/01/2023
घोषणा की तारीख/Pronouncement on: 04/01/2023

आदेश / ORDER

Aggrieved by the order dated 28/09/2022 passed by the learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Sampath Rao Dudapaka ("the assessee") for the assessment year 2017-18, assessee preferred this appeal.

2. Brief facts of the case are that the assessee is an individual and claims to be a Government Medical Doctor. He filed the return of income for the assessment year 2017-18 on 10/01/2018 declaring income of Rs. 8,20,934/-. The case was selected for scrutiny through CASS to verify the cash deposits made during the demonetization period. Assessee explained that the deposits of Rs. 2,00,500/- on 10/11/2016 and Rs. 3 lakhs on

15/11/2016 were out of the earlier withdrawals of Rs. 8,18,000/- on 16/09/2016, which was withdrawn for the purpose of purchase of agricultural land in his native village, but, because of the demonetization period, the same could not be materialized. Learned Assessing Officer was of the opinion that there was no documentary proof and details in respect of the contentions raised by the assessee, and, therefore, he added the entire deposits of Rs. 5,00,500/- to the income of the assessee and brought it to tax under section 69A of the Income Tax Act, 1961 (for short "the Act").

3. Aggrieved, the assessee preferred appeal before the learned CIT(A) and filed additional evidence under Rule 46 of the Income Tax Rules, 1962 ('Rules') in the shape of the letter, said to have been issued by the father of the assessee and also his Aadhar Card and record of Pattadar Pass Book and record of Rights Act. Learned CIT(A), however, observed that the assessee was unable to explain cash deposits with the help of the evidences in support of his claim even during the first appeal also. He, therefore upheld the addition and dismissed the appeal.

4. Assessee is, therefore, before me in this appeal contending that the authorities below failed to appreciate the evidence produced by the assessee in support of this claim as to the source of the cash deposits, being the withdrawal from the bank. Learned AR submits that though the assessee produced the additional evidence before the learned CIT(A), learned CIT(A) failed to consider the same and there is no whisper as to the letter submitted by the father of the assessee, stating that the cash deposit amount of Rs. 5,00,500/- was not part of cash withdrawal of Rs. 8,18,000/- that was withdrawn litter earlier to the date of demonetization.

5. Per contra, learned DR submitted that the cash withdrawal of Rs. 8,18,000/- was nearly forty days earlier to the date of first deposit in this matter during the demonetization period and, therefore, it is incumbent upon the assessee to establish the nexus between the withdrawals and

cash deposits. He accordingly submits that the authorities below are justified in considering the cash deposits as the amount from un-explained sources.

6. I have gone through the record in the light of the submissions made on either side. It could be seen from the impugned order that the learned CIT(A) stated that on verification of bank statement, he found that a sum of Rs. 8,18,000/- was withdrawn in cash on the given date and the assessee submitted that the reason for re-deposit of cash which was withdrew for the purpose of purchase of agricultural land was due to demonetization period. Learned CIT(A), however, was of the opinion that there is no evidence in support of the contentions of the assessee. It could be seen from the acknowledgment of filing of the appeal online, vide Item No. 3, the assessee submitted a petition under Rule 46 of the Rules and assessee also submitted the material under Rule 46 of the Rules as the letter dated 21/01/2020, copy of the Aadhar Card and the copy of the Pattadar Pass Book issued under the record of Rights Act. In the letter, the father of the assessee stated that he is not an educated man with no understanding of implication of demonetization in its proper import, and that is the reason why he did not return to bank the entire cash available with him at once and he returned it in two instalments @ Rs. 2.5 lakhs and Rs. 3 lakhs on 10/11/2016 and 15/11/2016 respectively.

7. Insofar as the source of cash is concerned, the withdrawal of Rs. 8,18,000/- on 16/09/2016 goes undisputed. Since the demonetization announced on 08/11/2016 even the deposit of Rs. 2.5 lakhs on 10/11/2016 also cannot be disputed. The dispute, therefore, must confine to Rs. 3 lakhs deposited on 15/11/2016. Assessee is a Government doctor and his statement that the withdrawal of amount was for the purpose of purchase of agricultural land, such amount was sent to his father for such purpose and because of not understanding the process of deposits of the specified notes in the bank in their proper import, the father of the assessee could not return the entire cash available with him at once and, therefore,

whatever the amount that was returned on 10/11/2016 was deposited at once on that date. According to him, as and when the balance of Rs. 3 lakhs was received four days later, the same also was deposited in his account.

8. In view of the withdrawal of amount of Rs. 8,18,000/- on 16/09/2016 read with the letter of confirmation issued by the father of the assessee, I am of the considered opinion that there is not much to suspect the cash deposits made on 10/11/2016 and 15/11/2016 respectively and the explanation offered on behalf of the assessee is sufficient to cover the deposits in dispute. Taking this view, I set aside the impugned order and direct the learned Assessing Officer to delete the addition made.

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

Order pronounced in the open court on this the 4th day of January, 2023.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 04/01/2023

TNMM

Copy forwarded to:

1. Sampath Rao Dudapaka, C/o. Katrapati & Associates, 1-1-298/2/B/3,
1st Floor, Ashok Nagar, Street No. 1, Hyderabad.
2. Income Tax Officer, Ward-4, Warangal.
3. NFAC-Delhi.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD