

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. 257/Hyd/2023
(निर्धारण वर्ष / Assessment Year: 2017-18)

Sri Raghuram Reddy
Bobba,
Nalgonda
[PAN No. AFIPB8605F]

Income Tax Officer,
Vs. Ward-1,
Nalgonda

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा / Assessee by: Shri S. Phanindra, AR
राजस्व द्वारा / Revenue by: Shri N. Raja Kumar, DR

सुनवाई की तारीख/Date of hearing: 25/05/2023
घोषणा की तारीख/Pronouncement on: 30/05/2023

आदेश / ORDER

Aggrieved by the order dated 23/03/2023 passed by the learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Raghuram Reddy Bobba ("the assessee") for the assessment year 2017-18, assessee preferred this appeal.

2. Assessee is an individual, engaged in the business of retail trade of sim cards. For the assessment year 2017-18, he filed his return of income on 04/06/2019 declaring gross total income of Rs. 7,39,310/- on an estimate at 6.5% of the total gross receipts of Rs. 1,13,73,996/- and after claiming deduction under chapter VI-A of the Income Tax Act, 1961 (for short "the Act"), he admitted income at Rs. 5,89,450/-.

3. During the course of scrutiny, learned Assessing Officer found that there were cash deposits to the tune of Rs. 10,09,000/- from the period between 08/11/2016 and 30/12/2016 apart from the deposits in his bank account at Rs. 1,06,17,570/-. On the ground that the assessee did not offer any explanation as to the source of these two receipts, learned Assessing Officer added the total amount of Rs. 10,09,000/- deposited in the bank during the demonetization period in cash and also 8% of the other deposits estimated at Rs. 8,49,405/-.

4. Assessee challenged both these additions before the learned CIT(A). Learned CIT(A) by way of the impugned order, upheld both the additions. Insofar as the addition of Rs. 10,09,000/- is concerned, according to the authorities below, the assessee did not offer any explanation as to the source of these cash deposits and since he is non-cooperative, in attitude, such additions were justified.

5. Assessee is, therefore, before me in this appeal and contended that the order of the learned Assessing Officer as well as the first appellate authority does not stand to any reason because the assessee himself offered the business income at Rs. 1,13,73,996/- and estimated the income component at 6.5% and while estimating the net profit at 8%, the authorities below failed to consider the net profit at 6.5% by the assessee. They also failed to consider that the business receipts of the assessee include both the cash deposits and other deposits in the bank account and there is no reason spelt out by the authorities as to why a separate treatment is given to the cash deposits during the demonetization period alone.

6. Per contra, learned DR argued that the order passed under section 144 of the Act in view of the non-cooperative attitude of the assessee and when once the learned Assessing Officer sought certain information, the assessee is duty bound to explain the same. In the absence of any explanation offered by the assessee, learned Assessing Officer left with no

option, but to proceed according to his best judgment. He, therefore, submits that there are no reasons to interfere with the orders of the authorities below.

7. I have gone through the record in the light of the submissions made on either side. It could be a fact that though the assessee did not file the return of income in response to the notice issued by the learned Assessing Officer, the assessee filed return of income on 04/06/2019, admitting the gross total income of Rs. 7,39,310/- by estimating the same at 6.5% on the total gross receipts of Rs. 1,13,73,996/-. Assessee also claims deduction under chapter VI-A of the Act. The entire assessment order is silent on this aspect. There are no reasons as to why the income offered by the assessee and the claim for deduction under chapter VI-A of the Act are ignored. Apart from this, the learned Assessing Officer though found the cash deposits to the tune of Rs. 10.09 lakhs, why he segregated such deposits made during the period between 08/11/2016 and 30/12/2016. Such a period is relevant only for the purpose of considering the deposits in specified notes and not for the deposits in non-specified notes.

8. Learned Assessing Officer should have verified whether there were any cash deposits prior to and after this particular period between 08/11/2016 and 30/12/2016. It is not the case of the Revenue that the cash deposits during this particular period between 08/11/2016 and 30/12/2016 was in specified bank notes. When the Revenue does not dispute the retail trade of assessee in sim cards, they cannot rule out the cash transactions or that when compared to the total turnover of the assessee, such cash transactions would appear to be very small in proportion. Even it is not the case of Revenue also. In such circumstances, there is no rationale for the learned Assessing Officer to pick up the cash transactions for a particular period and to disallow the same. I am, therefore, of the considered opinion that in all fairness, the learned Assessing Officer should have considered this Rs. 10.09 lakhs also as trade receipts and not a separate one.

9. Now coming to the estimate of net profit at 8% as against the 6.5% offered by the assessee on the gross business receipts, the learned Assessing Officer is fair enough to accept the business receipts and admit to cull out the income component there from. Whether or not it could be at 8% or 6.5%, I do not propose to interfere with the best judgment of the learned Assessing Officer, who felt it just and proper to estimate the same at 8%. If at all the assessee is contending that such 8% does not fit in the net profit pattern in the retrial trade of sim cards, it is open for the assessee to produce relevant material to substantiate that consistently he has been deriving income at any rate less than 8%. Assessee did not produce any material.

10. I, therefore, uphold the 8% estimated as resorted by the learned Assessing Officer, but at the same time, I direct the learned Assessing Officer to consider Rs. 10.09 lakhs also as business receipts for such estimate, and delete the addition of Rs. 10.09 lakhs made separately. Learned Assessing Officer is also directed to consider the income offered by the assessee and deduction claimed by him, before making any addition. Ground is answered accordingly.

11. In the result, appeal of assessee is allowed in part.

Order pronounced in the open court on this the 30th day of May, 2023.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 30/05/2023

TNMM

Copy forwarded to:

1. Sri Raghuram Reddy Bobba, C/o. Flat No. 610, 6th Floor, Babukhan Estate, Basheerbagh, Hyderabad.
2. Income Tax Officer, Ward-1, Nalgonda.
3. DR, ITAT, Hyderabad.
4. GUARD FILE

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ASSISTANT REGISTRAR
ITAT, HYDERABAD