

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

Mr. Sawarmal, Vs. Income Tax Officer,  
Hyderabad Ward-8 (2),  
[PAN No. AGQPS1710H] Hyderabad.

अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारित द्वारा / Assessee by: Shri A.V. Raghuram, AR  
राजस्व द्वारा / Revenue by: Ms. P. Sumitha, DR

सुनवाई की तारीख/Date of hearing: 27/06/2023  
घोषणा की तारीख/Pronouncement on: 18/07/2023

आदेश / ORDER

Aggrieved by the order dated 30/08/2022 passed by the learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Sawarmal ("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 filed the return of income for the assessment year 2017-18 on 22/01/2018 by declaring an income of Rs. 7,14,520/- after claiming deduction of Rs. 31,142/- under chapter VI-A of the Income Tax Act, 1961 (for short "the Act"). Certain cash deposits were found to have been made in the accounts of the assessee lying with DCB Bank, Hyderabad Branch and HDFC Bank, Charminar Branch during the demonetisation period, namely, between 9/11/2016 and 30/12/2016. Case was, therefore, selected for limited

scrutiny under CASS to verify such cash deposits. Since the assessee did not respond to the notices issued by the learned Assessing Officer, learned Assessing Officer treated the cash deposits during such period as unexplained deposit and added the same to the income of the assessee under section 69A of the Act by order dated 05/12/2019 passed under section 144 of the Act.

3. Aggrieved by such an order of the learned Assessing Officer, assessee preferred appeal and took the plea that schedule 6 of Balance Sheet reflected the cash pertaining to the closing balance and the particular allocation to DCB Bank is reflected through the closing balance of Rs. 21,650/- which according to the assessee substantially proves that the bank account is a part and parcel of the books of accounts. Assessee accordingly pleaded that when once the maintenance of books is proved, section 69A of the Act has no application and no amount could be added stating as 'unexplained money'.

4. Ld. CIT(A), however, did not accept the said contention of the assessee and was of the opinion that when it comes to the question of explaining the source of cash deposit, the assessee is duty bound to explain the source of the same with valid documentary evidences such as sale bills, vouchers, sales register, cash book etc., which the assessee never attempted to produce. Ld. CIT(A) therefore, held that in the absence of any such books, the claim of the assessee that the bank account is part and parcel of the books of accounts, cannot be accepted by correlating the credit in the books of assessee to the credit in the bank account of the assessee. For this reason, Ld. CIT(A) declined to interfere with the action of the learned Assessing Officer and dismissed the appeal.

5. Assessee is therefore, before me in this appeal stating that the appellate Commissioner ought not to have confirmed the addition because the amount of Rs. 31,13,100/- was recorded in the books of accounts and therefore, outside the operation of section 69A of the Act. Learned AR

submitted that along with ITR and computation of income, the balance sheet, trading and profit and loss account brought to the notice of the Ld. CIT(A) and specifically submitted that vide schedule-6 appended to balance sheet, the closing balance of both the banks is tallying with the cash book of the assessee and, therefore, the authorities committed an error in making and sustaining the addition.

6. Per contra, it is submitted by the learned DR that subsequent to the announcement of demonetisation, from 9/11/2016, barring certain businesses/institutions, no person is expected to receive the demonetised currency notes and, therefore, there is no point in the assessee contending that the bank accounts form part of the books of accounts and the deposits are fully explained. When it is expressly declared that no person shall receive the demonetised notes subsequent to 8/11/2016, it is for the assessee to explain the circumstances under which he had to receive the demonetised notes or to show by cogent evidence that such a demonetised notes stood form part of the cash on hand, which was deposited subsequently into the bank.

7. Whether or not the bank account is part and parcel of the books of accounts of the assessee is not the question involved in this matter, but what is pertinent is whether or not the cash deposits in question had something to do with the business of the assessee. In the absence of any cogent evidence to establish that the cash deposits in question had something to do with the business of the assessee, such credits to be found in the bank account, which even according to the assessee form part of the books of accounts of the assessee, remained unexplained and the provisions under section 69A of the Act are attracted.

8. I have gone through the record in the light of the submissions made on either side. In the computation of income under the head profits and gains from the business and profession, the assessee had shown Rs. 5,40,108/- and Rs. 1,61,812/- by computing the same, at 8% and 6% on the

turnover of Sitaram and Company where the transactions took place in cash and through banking channels respectively under section 44AD(1) of the Act. Such a course is permissible under law. He had also shown the same at Rs. 43,738/- in respect of Shyam Agencies for the transactions of cheque discounting business.

9. I found from the paper book that the assessee produced the balance sheet and trading, profit and loss account wherein it is clearly shown vide schedule 6 to the balance sheet the cash and bank balance were shown. Assessee also produced the extracts of the bank statements and also the cash book of Shyam Agencies. It is submitted by the learned AR that the assessee maintains the books in respect of Sitaram and Company also.

10. Nowhere in the assessment order nor in the appellate order, it is the case of the Revenue that the deposits made in the bank accounts or by way of specified notes. No such allegation is made. The authorities below wanted to verify the source of the deposits. The submissions made before the Ld. CIT(A) contain the plea that the assessee has been maintaining the books of accounts and, therefore, section 69A has no application.

11. Learned AR submits that the cash book maintained by the assessee to be found at page No. 80 and 81 of the paper book filed could be verified with reference to the bank statements which are also enclosed in the paper book. He submits that all this material is available before the Ld. CIT(A). He further submits that after perusing these papers, if the authorities below require any other information, the assessee is ready to furnish the same.

12. In these circumstances, I am of the considered opinion that it is necessary for the learned Assessing Officer to verify the cash book and other required material with reference to the bank statements for the purpose of identifying the source of deposits. If the source is identified,

then there is no problem to accept the computation of income under section 44AD of the Act. For this purpose, I set aside the impugned orders and restore the issue to the file of the learned Assessing Officer with a direction to the assessee to produce all the relevant material before the learned Assessing Officer. Grounds are accordingly treated as allowed for statistical purposes.

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

Order pronounced in the open court on this the 18<sup>th</sup> day of July, 2023.

Sd/-  
**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

Hyderabad,  
Dated: 18/07/2023

TNMM

Copy forwarded to:

1. Mr. Sawarmal, 21-1-748, Rikabgunj, Hyderabad.
2. Income Tax Officer, Ward-8(2), Hyderabad.
3. DR, ITAT, Hyderabad.
4. GUARD FILE

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ASSISTANT REGISTRAR  
ITAT, HYDERABAD