

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH, CHENNAI**

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष  
**BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER AND  
SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **629/Chny/2023**

निर्धारण वर्ष / Assessment Year: 2012-13

Krishnamoorthy Arumugam Income Tax Officer,  
13-C/1, Mariamman Koil v. Ward -5,  
Street, Cuddalore.  
Kammampettai,  
Cuddalore.

**[PAN: AZMPA-2652-F]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. T. Vasudevan, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri. AR V Sreenivasan, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 18.07.2023

घोषणा की तारीख/Date of Pronouncement : 26.07.2023

**आदेश /ORDER**

**PER MANJUNATHA. G, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is directed against the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 24.03.2023 and pertains to assessment year 2012-13.

2. The assessee has raised the following grounds of appeal:

*"1. The order of the National Faceless Appeal Centre dismissing the appeal is contrary to law, erroneous and unsustainable in the facts of the case.*

2. *The NFAC erred in confirming the addition of Rs.15,92,000 as unexplained money u/s.69A of the Act.*

3. *The NFAC failed to appreciate that the amount deposited in the bank account was duly explained by assessee and hence ought to have deleted the addition made by the officer.*

4. *The NFAC further failed to appreciate that the assessee had deposited the cash in bank account from his savings in his employment in Kuwait and the moneys given by his friends for starting a new business and the source for deposit having been explained, sustaining the addition was uncalled for.*

5. *The NFAC further failed to appreciate that since the proposed business venture did not materialise, the assessee had withdrawn Rs.13.83 lakhs and returned the moneys to his friends and the balance amount of Rs.2.14 lakhs belonging to him alone was left in the account as on 31.3.12 and therefore the addition sustained was arbitrary and unjust on the facts of the case.*

6. *The NFAC, ought to have considered that the assessee is making out a living as a vegetable vendor and the explanation furnished was bonafide and thus deleted the addition.*

7. *The NFAC, in any view of the matter, ought to have considered the submissions of the assessee in a proper perspective and deleted the addition under sec.69A of the Act."*

3. The brief facts of the case are that, the assessee is an individual, did not filed his return of income for the assessment year 2012-13 u/s. 139(1) of the Income-tax Act, 1961 (hereinafter referred to as "the Act"). From the records available, it was found that the assessee had made substantial cash deposit into savings bank account during the financial year relevant to assessment year 2012-13 and thus, the assessment has been reopened u/s. 147 of the Act and

accordingly, notice u/s. 148 of the Act, dated 27.03.2019 was issued and served on the assessee. In response to notice, the assessee neither filed his return of income nor furnished any details/documents in support of source for cash deposits. Therefore, the Assessing Officer passed exparte assessment order u/s. 144 r.w.s. 147 of the Act and made addition towards total cash deposits found with savings bank account maintained with Karur Vysya Bank, amounting to Rs. 15,92,000/- u/s. 69A of the Act. The assessee carried the matter in appeal before the first appellate authority, but could not succeed. The Id. CIT(A), for the reasons stated in their appellate order dated 24.03.2023, rejected arguments of the assessee and sustained addition made by the Assessing Officer towards cash deposits u/s. 69A of the Act. Aggrieved by the CIT(A) order, the assessee is in appeal before us.

4. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. The Ld. Counsel for the assessee, filed a petition for admission of additional evidences along with certain confirmation letters from various persons from whom the assessee claims to have received loans for the purpose of

business. The Ld. Counsel for the assessee, further submits that the assessee has received cash from his friends and deposited into bank account to commence a business, however due to certain reasons the business could not take off and thus, the assessee has withdrawn cash from the bank and repaid loans to his friends. In this regard, the assessee filed certain confirmation letters to prove the claim of loans from his friends as source for cash deposits. The Id. DR, submits that the assessee could not file any details including so called confirmation letters from the friends to prove the source for cash deposits is out of loans from friends. Therefore, he submits that additional evidences filed by the assessee should not be admitted.

5. Having heard both the parties and considered additional evidences filed by the assessee, including confirmation from certain individuals, we find that the assessee claims to have received loans from his friends to commence business and the same has been deposited into his bank account. Although, the assessee claims to have received loans from friends and relatives, but could not justify his arguments with credible evidences. At the same time, the Assessing Officer had also

not given any conclusive reasons to come to the conclusion that the cash deposits found with bank account of assessee is unexplained income. Therefore, in our considered view, under given facts and circumstances of the case, the only possible option left with us is to estimate income from cash deposits found with savings bank account of the assessee maintained with Karur Vysya Bank. Therefore, considering the facts and circumstances of the case and also to settle dispute between the assessee and the Assessing Officer, we are of the considered view that the entire cash deposits of Rs. 15,92,000/- cannot be treated as unexplained money of the assessee and thus, we direct the Assessing Officer to allow relief to the tune of Rs. 8 lakhs, because the source for cash deposits to the extent of Rs. 8 lakhs may be loans received from friends and relatives of the assessee. For balance amount of Rs. 7,92,000/-, the assessee could not file any evidence to prove source for cash deposits. Therefore, we direct the Assessing Officer to sustain additions to the extent of Rs. 7,92,000/- u/s. 69A of the Act.

6. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the court on 26<sup>th</sup> July, 2023 at Chennai.

**Sd/-**  
(वी दुर्गा राव)  
**(V. DURGA RAO)**  
न्यायिकसदस्य/**Judicial Member**

**Sd/-**  
(मंजुनाथ. जी)  
**(MANJUNATHA. G)**  
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated: 26<sup>th</sup> July, 2023

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF