

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “SMC”, HYDERABAD**

BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.258/Hyd/2023		
Assessment Year: 2017-18		
Late Khanna Khatoon, Rep. by her legal representative Mrs. Noor Alam Khatoon, Hyderabad – 500028. PAN : AAUPK1309C (Appellant)	Vs.	The Income Tax Officer, Ward – 7(1), Hyderabad. (Respondent)
Assessee by:	Shri A.V. Raghuram	
Revenue by:	Ms. Harshitha Chauhan	
Date of hearing:	19/07/2023	
Date of pronouncement:	19/07/2023	

ORDER

PER LALIET KUMAR, J.M.

The appeal of the assessee for A.Y. 2017-18 arises from the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dt.23.03.2023 invoking proceedings under section 143(3) of the Income Tax Act, 1961 (in short, “the Act”).

2. The grounds raised by the assessee reads as under :

“1. On the facts and in the circumstances of the case, the order passed by the Ld. CIT (Appeals) is erroneous and unsustainable on facts and in law.

2. The Ld. CIT (Appeals) erred in sustaining the addition of Rs.25,00,000/- made by the AO as unexplained money under section 69A of the Income tax Act, 1961. The Ld. CIT (Appeals) failed to appreciate that the Appellant had sufficient source by way of rental income for the previous year under consideration as well as for the past two decades, for the deposits made in her bank account.

3. The IA. CIT (Appeals) erred in sustaining the addition of Rs.25,00,000/- for the reason that the same has been transferred to another person just after three days of cash deposit and no reasons have been given. The IA. CIT (Appeals) failed to appreciate that the amount was transferred by the appellant to her daughter and not to a third person and at any rate none of the authorities have sought for the reasons as to why Appellant gave money.”

3. Facts of the case, in brief, are that the assessee is an individual, who filed her return of income electronically for A.Y. 2017-18 declaring total income of Rs.7,73,469/- on 22.07.2017. Subsequently, notices u/s 143(2) of the I.T. Act on 09.08.2018 was issued to the assessee. Thereafter, notices u/s 142(1) of the Act were issued from time to time and in response to the notices, assessee furnished her bank account statement of the account held with State Bank of Hyderabad. On perusal of the same, it was noticed that assessee on 21.11.2016, assessee had deposited the cash in her bank account and the same amount was transferred to one Shri Noor Alam Khatoon vide cheque No.118122 dt.25.11.2016. Since the assessee failed to substantiate the quantum and creditworthiness, an amount of Rs.25 lakhs was treated as unexplained and was brought to tax under section 69A of the Act. Thus, the Assessing Officer had completed the assessment interalia making an addition of Rs.25 lakhs to the total income of the assessee and passed assessment order u/s 143(3) of the Act dt.17.12.2019.

4. Feeling aggrieved with the order of Assessing Officer, assessee filed an appeal which was subsequently, migrated to the ld.CIT(A), NFAC, Delhi, who dismissed the appeal of assessee.

5. Feeling aggrieved with the order of ld.CIT(A), NFAC, Delhi, assessee is now in appeal before me.

6. Before me, ld. AR Mr. A.V. Raghu Ram reiterated the facts of case and he has drew my attention to page 4 of the paper book wherein it was mentioned as under :

Source of cash Deposits:

<i>Date</i>	<i>Amount (Rs.)</i>
<i>19/11/2016</i>	<i>45,000</i>
<i>25/11/2016</i>	<i>25,00,000</i>
<i>10/03/2017</i>	<i>20,000</i>
<i>Total</i>	<i>25,65,000</i>

I derived rental income from property at 15-7-646/4, A, 6, 8, 9, A/1, Begum Bazar and 15-6-459, 458,455,463,459/A/I, Begum Bazar, Hyderabad. These properties are my ancestral properties and I have been declaring rental income in my returns for more than 2 decades. I am an old lady, and I am not comfortable and not conversant with banking procedures, hence, I always retain my savings in cash. A perusal of the bank statement submitted to you indicates the above explanation" The rental income declared by me for the last 5 years for you to understand the quantum of income is as under :

Assessment Year	Rental Income
<i>2017-18</i>	<i>11,49,799/- (Copy of ITRV, computation already submitted on 05/08/19)</i>
<i>2016-17</i>	<i>10,46,745/- (Copy of ITRV, computation already submitted on 05/08/19)</i>
<i>2015-16</i>	<i>10,07,036/- (Copy of ITRV, computation already submitted on 05/08/19)</i>
<i>2014-15</i>	<i>8,99,495/- (Copy of ITRV, computation already submitted on 07/10/19)</i>
<i>2013-14</i>	<i>8,33,296/- (Copy of ITRV, computation already submitted on 07/10/19)</i>

The copies of Receipts and Payments account along with the income tax returns for A.Y. 2013-14 to A.Y. 2017-18 are enclosed herewith.

7. Ld.AR contended that the assessee had explained the source of amount deposited in the bank was from the rental income, and it was further submitted that assessee had been filing the return of income for many years. These facts should have been considered by the Revenue. Further, it was submitted that assessee was old and belonged to a respectable family. The ld. AR further submitted that it is common for the old ladies to save cash for the remaining days to handle contingencies and health needs of the family. It was submitted that the assessee was a widow and having four living children and many grand-children, she at the relevant time had saved that money for spending on the occasions of marriages, birthday functions of grand-children and for taking care of the family's needs. The ld. AR further submitted that once the assessee was able to substantiate and explain the source of deposit with the help of income tax returns and the submissions therein, the entire addition made by the Assessing Officer and confirmed by the ld.CIT(A) are required to be deleted.

8. On the other hand, the ld. DR rebutted the arguments made by the assessee. The ld. DR submitted that it is not expected from a lady to deposit such a huge amount in one go and further contended that the bank account in which the amounts were deposited was opened in the earlier years. Ld. DR further submitted that the entire amount deposited by the assessee cannot be considered as accumulated savings, and therefore, the assessee is not entitled to the relief.

9. I have heard the rival submissions and perused the material on record. In the present case, the assessee, being an old lady, had deposited a sum of Rs.25 lakhs in her bank account namely, State Bank of Hyderabad, on 21/11/2016 after demonetization. After depositing the said amount in the bank account, she transferred the same to her daughter's account by way of cheque dated 25.11.2016. The case of the assessee was selected for limited scrutiny as there were large volumes of cash deposits in her bank account during the demonetization period compared to the declared income in her returns. Hence, the assessee was given a show cause notice. Thereafter, the assessee submitted her reply; however, the Assessing Officer was not convinced with the reply given by the assessee and hence, added Rs.25,00,000/- to the income of the assessee under section 69A of the Act and passed assessment order accordingly. Thereafter, assessee filed an appeal, which was subsequently, migrated to the Id.CIT(A), NFAC, Delhi also. Before the Id.CIT(A), NFAC also, the assessee explained that the amount deposited in her bank account were from the accumulated cash earned from rents received over many years. In fact, during the appellate proceedings, the assessee had filed the return of income from A.Y.s 2013 to 14 to 2017-18, wherein she had explained that rent income for these years were ranging from 5.78 lakhs to 7.69 lakhs and the gross income for the said 5 assessment years ranging from Rs.8.33 to 11.49 lakhs. However, the Id.CIT(A) did not find the explanation of the assessee convincing, hence, he had confirmed the order passed by the Assessing Officer at Page 7 of his order, which is to the following effect :

“.....I have considered the submissions of the appellant carefully. The crux of the appellant's argument is that she is a senior citizen, not conversant with the banking procedures, accumulated cash from rental income and this accumulated cash was deposited in the bank during the demonetization period. It is also stated that appellant is filing her return of income regularly in which rental income has been offered to tax. On the other hand, AO has held that appellant has not given any purpose for keeping such a huge cash and also noticed that the cash deposit made in her bank account has been transferred to another person namely Shri Noor Alam Khatoon after three days of cash deposit made in her bank account. I have considered submission of the appellant on perusal of appellant's submissions it is noticed that appellant had deposited cash on 19.11.2016 Rs.45,000/-, on 25.11.2016 Rs.25,00,000/- and on 10.03.2017 Rs.20,000/- respectively. On analyzing the above facts, one can a genuinely get a doubt as to why appellant could not be deposited entire accumulated cash of Rs.25,45,000/- as on 19.11.2016 but only deposited Rs.45,000/-. In view of this fact, I find the averment of accumulating cash out of rental income is found to be hollow and empty statements. Further, there is no reason given as to why the said amount had been transferred to another person just after three days of cash deposit in the bank account. These facts indicate that appellant may not have accumulating cash to the tune of Rs.25,45,000/- as on 19.11.2016. No other arguments in this regard has been taken by the appellant. In the facts and circumstances of the case, I hold that the submissions of the appellant are without any substance In view of the above discussion the addition made by the AO amounting to Rs. 25,00,000/- u/s 69A stands confirmed. All the grounds of appeal taken by the appellant are dismissed.”

10. In my view, there is no cavil that the assessee was assessed to income tax for the last many years and the above side is not disputed by the Assessing Officer or by the Id.CIT(A). In fact, the Id.CIT(A) had reproduced the summary of ITRs from A.Ys. 2013-14 to 2017-18 on page 6 of his order. The grand total of all the net income for the 5 years roughly comes to Rs.34 lakhs, which is more than the amount deposited by the assessee on 21/11/2016 i.e., 25 lacs. In my opinion, it is not expected for a person who is earning the income from rents to save and preserve the whole amount. In fact, some of the amounts must have been spent by

the assessee either for herself or for the welfare of the family or on the education of the grandchildren etc.

11. In my opinion, a balance is required to be drawn between the interests of the assessee as well as the interests of the revenue. Further during the period from 01.04.2016 to 21.11.2016, there was no debit entry in the bank account of the assessee, which clearly shows that the assessee did not have the active bank account even prior to the period of demonetization. In view of the above, the explanation given by the assessee merit consideration, and the amount deposited by the assessee in her account was required to be considered from her previous holdings. However, as pointed by the Id. DR, the whole amount deposited in the bank cannot be accepted to be explained. Considering the totality of the facts, social status of the assessee and the fact that the assessee had passed away, I am of the opinion that the ends of the justice would met if the addition of Rs.5,00,000/- is confirmed out of the addition of Rs.25,00,000/- under section 69 of the Act on estimation basis, and the remaining amount of Rs.20 lakhs is deleted. Accordingly, Rs.5 lakhs are confirmed and thereby assessee gets the relief of Rs.20 lakhs. Thus, the appeal of the assessee is partly allowed.

12. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the Open Court on 19th July, 2023.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad, dated 19th July, 2023.

TYNN/sps

Copy to:

S.No	Addresses
1	Late Khanna Khatoon, Rep. by her legal representative Mrs. Noor Alam Khatoon, C/o. A.V. Raghunath, Advocate, 6 th Floor, Babukhan Estate, Basheerbagh, Hyderabad – 500 001.
2	The Income Tax Officer, Ward – 7(1), Hyderabad.
3	DR, ITAT Hyderabad Benches
4	Guard File

By Order