

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

Krishna Murthy Juluri, Vs. Income Tax Officer,  
Warangal Ward-1,  
[PAN No. ACEPJ5157F] Warangal

अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri Y.V. Bhanu Narayan Rao, AR  
राजस्व द्वारा/Revenue by: Shri Mahidar, DR

सुनवाई की तारीख/Date of hearing: 04/09/2023  
घोषणा की तारीख/Pronouncement on: 07/09/2023

आदेश / ORDER

Aggrieved by the order dated 25/05/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Krishna Murthy Juluri ("the assessee") for the assessment year 2017-18, assessee preferred this appeal.

2. Assessee is an individual. He is running the proprietorship business in the name and style of M/s. Keerthi Financiers and is deriving the income from said financing business. For the assessment year 2017-18, he filed the return of income on 07/09/2017 declaring a total income of Rs. 6,66,180/-. A total cash deposit of Rs. 8,99,000/- made by the assessee

during the demonetization period was found. Such deposits were Rs. 6,50,000/-, Rs. 2,25,000/- in Specified Bank Notes (SBN) and Rs. 24,000/- (in non-specified bank notes) on 12/11/2016, 22/11/2016 and 17/12/2016 respectively.

3. Assessee pleaded that the sources for the said cash deposits were the opening cash-in hand held on 09/11/2016 to the tune of Rs.10,65,217/- as per the cash book and amount received from customer named R. Bhaskar Rao on 17/12/2016 in non-SBNs notes. In support of the sources for the cash deposits made during the demonetization period, assessee furnished the copies of the bank statements, bank-wise explanatory statements explaining the detailed sources for each cash deposits made in the assessee bank accounts during the financial year 2016-17 which is extracted from the books of accounts maintained by the assessee and copies of the pay-in-slips in relation to cash deposits made.

4. Learned Assessing Officer considered the cash deposit of Rs.6,50,000/- made on 12/11/2016 as out of opening balance of cash in hand held on 09/11/2016. The cash deposits of Rs.2,25,000/- and Rs. 24,000/- made on 22/11/2016 and 17/12/2016 respectively are treated as unaccounted cash from unknown sources and addition was made u/s 69 of the Income Tax Act, 1961 (for short "the Act").

5. Learned Assessing officer completed the assessment proceedings by way of an order u/s.143(3) of the Act, by determining the income of the assessee at Rs.9,15,180/-.

6. Aggrieved by the addition, the assessee preferred an appeal before the learned CIT(A).

7. Before the learned CIT(A), assessee contended that he submitted all the documents necessary to support his contentions before the learned Assessing Officer and the learned Assessing Officer basing on suspicion, added the amount.

8. Learned CIT(A), however, concurred with the findings of the learned Assessing Officer and gave a finding that the assessee failed to prove the source as to cash in hand and, therefore, the learned Assessing Officer is justified in making the addition under section 69 of the Act.

9. Assessee, therefore, filed this appeal and contended that without disputing the fact that the assessee had cash in hand to the tune of Rs. 10,65,217/- as opening balance on 09/11/2016 and without rejecting the books of accounts and having accepted a sum of Rs. 6.5 lakhs as a genuine transaction, added Rs. 2.49 lakhs on the suspicion that if all the amount of Rs. 10.65 lakhs is available with the assessee as on 09/11/2016 itself, the assessee would have deposited all such amount on 12/11/2016 itself. On this ground, learned Assessing Officer suspected the subsequent deposit of Rs. 2.49 lakhs and added to the income of the assessee. Learned AR submitted that the source of entire cash of Rs. 10.65 lakhs is his business as a financier and when once the learned Assessing Officer accepts the source for Rs. 6.5 lakhs, there is nothing to suspect Rs. 2.25 lakhs and Rs. 24,000/- which are also from the same source.

10. Learned DR submitted that the orders of the authorities below are not on surmises and they are justified in concluding that the assessee had only Rs. 6.5 lakhs in his hand as on 09/11/2016, but his subsequent

deposits to the tune of Rs. 2.49 lakhs have nothing to do with such source and the assessee concocted his opening balance as on 09/11/2016.

11. I have gone through the record in the light of the submissions made on either side. In his order, the learned Assessing Officer specifically mentioned that Rs. 6,50,000/-, Rs. 2,25,000/- in SBN and Rs. 24,000/- (in non-specified bank notes) were found to have been deposited in the assessee's account on 12/11/2016, 22/11/2016 and 17/12/2016 respectively. Assessee explained that as on 09/11/2016, he had opening balance of Rs. 10.65 lakhs towards cash in hand. Assessee also explained that from out of this amount, the assessee made the relevant first two deposits.

12. Revenue does not dispute that the assessee has been dealing in finance business or that he held cash in hand to the tune of Rs. 10.65 lakhs as an opening balance as on 09/11/2016. Revenue also does not dispute the genuineness of deposit of Rs. 6.5 lakhs on 12/11/2016. The only dispute is in respect of Rs. 2.25 lakhs deposited in specified notes on 22/11/2016 and Rs. 24,000/- on 17/12/2016. Insofar as Rs. 24,000/- is concerned, undisputedly, it is in non-SBN notes and the statement of the assessee that it was the collection from one Mr. Bhaskar Rao, on 17/12/2016 need not be disbelieved, because the assessee doing business of finance is not in dispute. Therefore, what remains in dispute is only in respect of Rs. 2.25 lakhs deposited on 22/11/2016.

13. It is not as though the assessee did not explain the source of this Rs. 2.25 lakhs. According to the assessee, it was his business collection. When the learned Assessing Officer does not dispute the assessee holding

Rs. 10.65 lakhs as an opening balance as on 09/11/2016, and the assessee explains that out of this amount, only a sum of Rs. 6.5 lakhs was deposited on 12/11/2016, the balance of Rs. 4.15 lakhs still remain in the hands of the assessee. Without disputing the nature of business of assessee or such opening balance as on 09/11/2016, the learned Assessing Officer cannot ignore the availability of Rs. 4.15 lakhs in the hands of the assessee. The only reason for not accepting the deposit on 22/11/2016 is the suspicion of the authorities that if really the entire Rs. 10.65 lakhs were available, why should the assessee not deposit the same at the first instance itself.

14. Learned AR submitted that when once the assessee satisfactorily explained the source of Rs. 6.5 lakhs and accepted by the learned Assessing Officer, the same source equally explains the deposit of Rs. 2.25 lakhs on 22/11/2016 also, because after initial deposit of Rs. 6.5 lakhs, there remains in the hands of the assessee a sum of Rs. 4.15 lakhs, out of which the SBN notes were to the tune of Rs. 2.25 lakhs. Merely because the assessee could not deposit them on a single day, it cannot be presumed that the deposit of Rs. 2.25 lakhs go unexplained. I agree with him. The explanation offered for deposit of Rs. 6.5 lakhs by the assessee equally explains the deposit of Rs. 2.25 lakhs also. If the learned Assessing Officer does not believe, the assessee holding Rs. 10.65 lakhs as opening balance, then while rejecting the same, learned Assessing Officer should have verified the pattern of deposits made by the assessee in usual course every month. Without doing so, it is not open for the learned Assessing Officer to make any addition just on surmises and conjectures, without disturbing what is apparent and reasonable. I, therefore, while accepting the contentions raised by the assessee, direct

the learned Assessing Officer to delete the addition made. Grounds are accordingly allowed.

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

Order pronounced in the open court on this the 7<sup>th</sup> day of September, 2023.

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

Hyderabad,  
Dated: 07/09/2023

TNMM

Copy forwarded to:

1. Shri Krishna Murthy Juluri, 8-11-162, Kondurivari Street, Warangal.
2. Income Tax Officer, Ward-1, Warangal.
3. Pr.CIT
4. DR, ITAT, Hyderabad.
5. GUARD FILE.

TRUE COPY

ASSISTANT REGISTRAR  
ITAT, HYDERABAD