

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ‘ SMC ‘ Bench, Hyderabad**

BEFORE

SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.430/Hyd/2023		
Assessment Year: 2016-17		
Sumathi Pathipati, R/o.Tirupati. PAN : CGPPP4253D.	Vs.	The Income Tax Officer, Tirupati.
(Appellant)		(Respondent)
Assessee by:	Ms. S. Sandhya, Advocate.	
Revenue by:	Sri Aravindakshan, Sr. A.R.	
Date of hearing:	11.09.2023	
Date of pronouncement:	11.09.2023	

ORDER

PER LALIET KUMAR, J.M.

The appeal of the assessee for A.Y. 2016-17 arises from the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC) – Delhi dt.26.06.2023 invoking proceedings under section 144 of the Income Tax Act, 1961 (in short, “the Act”).

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

“1. The order of the learned Commissioner of Income-Tax (Appeals) is erroneous both on facts and in law.

2. The learned Commissioner of Income-Tax (Appeals) erred in confirming the action of the Assessing Officer in treating the cash deposits of Rs.6,41,800/- and the credit card cash remittances of Rs.1,22,900/- as the income u/s 68 of the I.T. Act.

3. The learned Commissioner of Income-Tax (Appeals) ought to have seen that the appellant was having receipt assessable under the head “Business/profession” during the said period and, therefore, the amount should not have been added by virtue of the provisions of Sec.68 of the I.T. Act.”

3. Facts of the case, in brief, are that assessee is an individual, who filed her revised return of income on 29.11.2017 for the A.Y. 2016-17 was selected for “Limited” Scrutiny by CASS. Thereafter, notice under section 143(2) was issued and served on the assessee. During the course of assessment, Assessing Officer noticed that assessee had made payment of Rs.2,80,356/- towards Credit Card Bills to RBL Bank Limited. Hence, information was called from the banker U/s 133(6) of the I. T. Act, 1961. According to the bank statement furnished, assessee has deposited an amount of Rs. 6,03,700/- on various dates. Assessing Officer also noticed that assessee had an opening balance of Rs.38,1000/- in SBI, Tirupati and that assessee had also made cash remittances to Rs.1,22,900/- on various dates in cash. Finally, it was established that assessee had made cash deposits from undisclosed sources and also failed to substantiate

the same with evidences by responding to the statutory notices. As such, the income of the assessee was assessed u/s 144 of the Act by treating the above deposits as cash credits as per section 68 of the Act by the Assessing Officer and accordingly, he passed assessment order on 13.12.2018 interalia making additions of Rs.6,03,700/- towards cash deposits in RBL Bank Limited and also made addition of Rs.1,22,900/- towards credit card payments to RBL Bank. Thus, the Assessing Officer completed the assessment under section 144 of the Act.

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

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

6. Before me, Ld.AR submitted that assessee failed to appear due to unavoidable circumstances and further, she has drawn our attention to Paragraphs 5.3 and 5.4 of the order of Id.CIT(A), which is to the following effect :

“5.3 The contentions of the appellant have been considered. The appellant has claimed that the best judgment was done by the AO without giving opportunity to the appellant. However, it is seen that the AO has issued a notice on 29.08.2018 but she had chosen not to respond to the statutory notices issued during the assessment proceedings. During the appellate proceedings the appellant has admitted that she is doing the business of sale of sarees, embroidery and others and admitted the income received is being offered as ‘Income from Other Sources’. In face of non-compliance the AO has rightly added the amount under the head income from other sources.

5.4 During the course of appellate proceedings also the appellant has not produced the above mentioned details and also could not justify the opening cash balance, cash deposits and credit card remittances. The appellant’s contention that she had filed revised income admitting the same under the head Income from Other Sources claiming the source of Rs.7,45,900/- deposited in the bank account during the demonetization period cannot be accepted merely as it is not a valid proof for availability of cash as the appellant had not filed return for the previous years and the source of cash were unverifiable by the AO. The appellant has not discharged the onus cast upon her to explain the source of cash deposits/credit card remittances made in SBI and RBL Bank on various occasions of Rs.7,64,700/-. Therefore, the appellant could not explain the source of cash deposit of Rs.7,64,700/- during the relevant period in spite of number of opportunities granted to her by the AO as well as the First Appellate Authority. Hence, the addition of Rs.7,64,700/- as unexplained cash credits u/s 68 of the I.T. Act is hereby confirmed. The grounds of appeal taken by the appellant are dismissed.”

6.1 Based on the above, the Ld. AR submitted that an amount of Rs. 6,03,700/- was deposited in RBL Bank Limited on various dates during the demonetization period, and the said amount was nothing but assessee's previous savings. Furthermore, ld. AR for the assessee submitted that a lenient view may be taken.

7. On the other hand, ld. DR submitted that two distinct issues arose in the present case. He further contended that income from other sources is different from unexplained cash credit deposits in RBL Bank Limited during the demonetization period. The ld. DR contended that the assessee had failed to explain the deposits of Rs.2,35,000/- in cash deposits in RBL Bank Limited and Rs.6,03,700/- and Rs.1,22,900/- remitted in RBL Bank limited on various dates, despite the opportunity granted by the ld.CIT(A) and further emphasized that assessee needs to explain these two amounts.

8. I have heard the rival submissions and perused the material on record. Admittedly, the assessee has filed the return of income declaring income of Rs.7,45,900/-. However, there was no mention of cash deposits or availability of cash in the computation of income filed along with the return of income to the extent of Rs.7,45,900/-. Further, no evidence was shown disclosing the source of the said cash. Admittedly, the assessee, being a lady was doing the business of sale of sarees and embroidery work and hence, it is expected that assessee must have kept some cash with her to meet the emergency medical and other family requirements. The Revenue, had, in fact, issued a notification permitting any person to deposit up to a sum of Rs.2,50,000/- during the demonetization. In the light of the above, I deem it appropriate to delete Rs.2,64,000/- from the additions and confirm the addition of Rs.5 lakhs considering that

the Rs.2,64,000/- must be available with the assessee on account of past saving etc. for emergency usage. Hence, the appeal of the assessee is partly allowed.

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

Order pronounced in the Open Court on 11th September, 2023.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad, dated 11th September, 2023.

TYNN/sps

Copy to:

S.No	Addresses
1	Ms. Sumati Pathipati, R/o.19-9-3E/8, Jayanagar Hotel Bliss, Tiruchanoor, Tirupati, Andhra Pradesh – 517501.
2	The Income Tax Officer, Tirupati.
3	Pr.CIT(Central), Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order