

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

Marreddy Gundapureddy, Income Tax Officer,
Mattampalli Vs. Ward-1,
[PAN No. AURPG8979M] Nalgonda

अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri GSSS Gopinath, AR
राजस्व द्वारा/Revenue by: Shri AGV Prasad, DR

सुनवाई की तारीख/Date of hearing: 09/11/2023
घोषणा की तारीख/Pronouncement on: 16/11/2023

आदेश / ORDER

Aggrieved by the order dated 28/07/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Marreddy Gundapureddy ("the assessee") for the assessment year 2017-18, assessee preferred this appeal.

2. Facts in brief are that the assessee did not file any return of income for the assessment year 2017-18. Having found that during the relevant financial year, the assessee made certain cash deposits in his bank account

to the tune of Rs. 10,00,000/-, learned Assessing Officer issued notice under section 142(1) of the Income Tax Act, 1961 (for short "the Act"), on 12/03/2018, requiring the assessee to file the return of income for assessment year 2017-18. Assessee, however, failed to comply with the said notice. Considering the assessee's consistent non-compliance, learned Assessing Officer completed the assessment ex-parte under section 144 of the Act, determining the assessee's total income at Rs. 10,00,000/- by making addition of the deposited amount.

3. Aggrieved, the assessee filed an appeal before the learned CIT(A) and pleaded that he is a farmer; that Mr. Daveedu Reddy is his relative; that Daveedu Reddy withdrew the fixed deposit amount of Rs 8 Lakhs from his account and he has given the amount of Rs 8 lakhs along with the amount of Rs 2 lakhs physical cash available with him to their relatives for the purpose of marriage, but they refused to take cash and suggested to transfer to their accounts; that he went to his bank to redeposit in his account and transfer to their relatives, but the bank manager refused to take the cash as he did not have PAN number, and since the assessee has PAN, Mr. Daveedu Reddy requested the assessee to deposit Rs 10 lakhs in his account for immediate transfer to the accounts of his three relatives, namely, T. Thomasamma, G.Sujit Simon Reddy, G. Chinnapureddy. All this happened on 08/11/2016. Assessee expressed his grievance that sufficient opportunity was not granted to understand the purport of notice, gathered the information and to submit the same before the learned Assessing Officer.

4. Learned CIT(A), however, recorded a finding that the assessee failed to prove his relationship with Daveedu Reddy, or the need to deposit the

amounts in the account of the assessee or the immediate transfer thereof or that the amounts received by the assessee in his account are relatable to Daveedu Reddy etc. By placing reliance on the decisions of Hon'ble Apex Court in the cases of CIT vs. Durga Prasad More (1971) 82 ITR 540 (SC) and CIT vs. P. Mohankala [2007] 161 Taxman 169 (SC), learned CIT(A) concluded that facts have to be appraised having regard to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case. According to the learned CIT(A), the case of the assessee does not fit in this parameter and, therefore, learned CIT(A) dismissed the appeal.

5. Challenging the above factual findings of the learned CIT(A), assessee preferred this appeal and contended that had the learned CIT(A) required the production of evidence on these aspects, the assessee could have produced the same, but without expressing the doubt, the learned CIT(A) dismissed the appeal with reference to such doubts in the order itself. Learned AR produced the copy of the ration card, SSC certificate of his wife, passports of the daughter of Daveedu Reddy, her husband and in-laws to prove the relationship and also the context of the deposit of amount in the account of the assessee and subsequent transfer thereof to the accounts of the husband and in-laws of the daughter of Daveedu Reddy. He placed reliance on the decision of the Co-ordinate Bench in the case of Ashish Natvarlal Vashi vs. ITO in ITA Nos. 2744 & 1403/Ahd/2015 & ITA No. 2219/Ahd/2016, dated 11/05/2021 for the principle that no addition could be made in the hands of a person, who merely acted as a facilitator, acted on behalf of others.

6. Per contra, learned DR relied upon the orders of the authorities below and submitted that in the absence of any evidence on the aspects referred to by the learned CIT(A), authorities below are justified in making an upholding the impugned addition.

7. I have gone through the record in the light of the submissions made on either side. There is no dispute that the assessee is a farmer and his bank account reveals that there have never been any debits or credits in his account worth, except the impugned deposit of Rs. 10 lakhs on 08/11/2016. There was no whisper about demonetization as on 08/11/2016 and it was only on the evening of 08/11/2016 the world came to know about demonetization of specified notes. It is, therefore, clear that the impugned deposit in this case need not be looked at as an attempt to circumvent the demonetization policy of Government.

8. I have looked into the additional evidence produced. These are all the copies of ration card and passports of the related parties. In view of the smallness of the addition involved and also the simplicity of facts, instead of sending the papers to the learned Assessing Officer for undertaking the entire exercise again at various levels, I proceed to peruse the documents. Ration card of the family of the assessee and the passport of one Thumma Thomasamma show that the wife of the assessee and Thomasamma and own sisters and daughters of one Thumma Show Reddy. The passports of Thumma Roshamma, her husband Gopu Chinnapu Reddy and their son, Gopu Sujit Simon Reddy establish their relationship as such and through the passport of Sujit Reddy and Mekala Anusha, daughter of Daveedu Reddy show that they are wife and husband and for whose marriage purpose, Daveedu Reddy said to have accumulated Rs. 10

lakhs. The case of the assessee, and for that matter, the case of Daveedu Reddy in his affidavit is that when the parents of the bridegroom refused to receive the cash, and in view of the fact that those who are residing at Hyderabad, whereas the assessee and Daveedu Reddy were residing in Nalgonda Dist., keeping in view the existing relationship between the assessee and the family of his co-brother, who happened to be the proposed in-laws of the daughter of Daveedu Reddy, Daveedu Reddy transferred the amounts to them through the account of the assessee.

9. On a careful perusal of the copies of the ration card and the passports produced, I am satisfied about the relationship between the parties involved in this matter. It is pertinent to note that the bank statement of the assessee and Daveedu Reddy clearly establish that on 08/11/2016, Daveedu Reddy withdrew an amount of Rs. 8 lakhs from his account. Further, the bank statement of the assessee also clearly shows that on 08/11/2016 itself, there was a deposit of Rs. 10 lakhs in his account and immediately on the same day, the entire amount of such Rs. 10 lakhs was transferred to the accounts of the co-brother of the assessee and his wife and son. This clearly establishes that the deposit of money in the account of the assessee was only for a moment and immediate transfer indicates that the assessee was never intended to be the owner of such money. This transaction clearly indicates that such a money does not belong to the assessee and for that matter, never intended to belong to assessee.

10. On a careful appraisal of these facts, I have no doubt in my mind to hold that the assessee was intended only to be a facilitator in the transaction of Daveedu Reddy transferring Rs. 10 lakhs to the family

members of the proposed husband of her daughter. No other inference is possible. Any doubt in this regard must be a pragmatic one and the assessee cannot be put to proof of his ownership in relation to such amount which was in his account only for a few minutes that too without any indication of his acquiring any ownership thereto. He is only a facilitator. To these facts, the decision of the Co-ordinate Bench in the case of Ashish Natvarlal Vashi vs. ITO (supra) is applicable on all fours.

11. In these circumstances, I am of the considered opinion that when once the facts are viewed from the angle of proven relationship between the parties, there is no room for any suspicion and the case of the assessee can be believed. Hence, I accept the contention of the assessee and allow the grounds raised.

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

Order pronounced in the open court on this the 16th day of November, 2023.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 16/11/2023

TNMM

Copy forwarded to:

1. Marreddy Gundapureddy, H.No. 9-36/B, Durga Nagar, Mattampalli,
Nalgonda Dist.
2. The Income Tax Officer, Ward-1, Nalgonda.
3. Pr.CIT,
4. DR, ITAT, Hyderabad.
5. GUARD FILE

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD