

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC - B” BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT**

IT(IT)A No.677/Bang/2023
Assessment Year : 2017-18

Shri. Shaon Paul, “Sougandhika”, 5 <sup>th</sup> A Cross, Munirathnam Naidu Road M. v. Extension, Hosakote, Bengaluru – 562 114. <b>PAN : AMKPP 6759 R</b>	Vs.	ITO, International Taxation, Ward – 2(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Raghavendra Chakravarthy, CA
Revenue by	:	Shri. Ganesh R Ghale, Standing Counsel for Revenue.

Date of hearing	:	29.11.2023
Date of Pronouncement	:	29.11.2023

**ORDER**

This appeal at the instance of the assessee is directed against CIT(A)'s order dated 10.07.2023, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2017-18.

2. There is a delay of four days in filing this appeal. Assessee has filed a petition for condonation of delay. On perusal of the reasons stated for condonation of the delay, I am satisfied that there is reasonable cause for late filing of this appeal. Hence, the delay of four days in filing the appeal is condoned and I proceed to dispose off the matter on merits.

3. The solitary issue that is raised is whether CIT(A) is justified in confirming the addition of Rs.5 lakhs under section 69A of the Act.

4. Brief facts of the case are as follows:

Assessee is an NRI. For the Assessment Year 2017-18, return of income was filed on 07.03.2018 declaring income of Rs.2,21,906/- under the head 'Income from Other Sources'. The case was selected for scrutiny for the reason of cash deposits made during the demonetization period. The AO obtained a copy of the bank statement for the relevant period by issue of notice under section 133(6) of the Act. It was noticed that assessee had deposited a sum of Rs.5 lakhs on 16.11.2016 in his SB A/c maintained with Canara Bank. The assessee explained the source of cash deposit by stating that he had sold a property vide sale deed dated 20.08.2011 and he was in receipt of Rs.2 lakhs which was entrusted with the assessee's parents for emergency since he had lived outside the country. It was also submitted that assessee had withdrawn cash of Rs. 2 lakhs each on 01.07.2011 and 19.09.2011 and same also has been utilized for the cash deposits made. The AO however rejected the explanation of the assessee and held the cash withdrawals and receipt of Rs.2 lakhs on sale of property was prior to six years to the deposit and in all likelihood the cash entrusted with the parents would have been expended for personal needs.

5. Aggrieved by the Order of Assessment, assessee preferred appeal before the CIT(A). The CIT(A) rejected the contention of the assessee and confirmed the addition made by the AO under section 69A of the Act, amounting to Rs.5 lakhs.

6. Aggrieved by the order of the CIT(A), assessee filed the present appeal before the Tribunal. Assessee has filed a Paper Book comprising of 160 pages enclosing therein copy of the bank statement in the name of assessee, his mother, Form 26AS for the Assessment Years 2014-15 to 2017-18, copy of the sale deed dated 20.08.2011, reply submitted to the AO, etc. The learned AR submitted that assessee

is an Australian citizen and certificate to the effect has been furnished in the Paper Book submitted. It is stated that assessee does not have any other source of income in India and the cash deposits are out of known source of income, hence addition under section 69A of the Act is not justified.

7. The learned Standing Counsel submitted that the source of cash deposit of Rs.5 lakhs is sought to be explained by the assessee with regard to the withdrawals in the year 2011 and receipt of sale of a property also in the year 2011. It was submitted by the learned Standing Counsel that more than six years have lapsed from the date of the aforesaid withdrawals and redeposit. It was submitted that cash of Rs.5 lakhs could not have been retained as such for long period of almost 6 years.

8. I have heard the rival submissions and perused the material on record. The assessee's explanation with regard to the source of cash deposits of Rs.5 lakhs is the receipt of Rs.2 lakhs on account of sale of property on 20.08.2011 and cash withdrawal of Rs.2 lakhs each from his bank account viz., Vijaya Bank on 07.07.2011 and 19.11.2011. It is stated that this amount has been deposited in Canara Bank of the assessee on 16.11.2016. The explanation of the assessee with regard to the source of cash deposit is too far-fetched as no prudent man would retain a sum of Rs.5 lakhs which he had received / withdrawn in 2011 for redeposit in the year 2016. In other words, the time period is fairly lengthy for redeposit to be ascribed to previous withdrawals. Therefore, I am of the view that the addition made by the AO under section 69A is justified on facts of the instant case. However, I am of the view that entire addition is not warranted, since some amount of money would have been available with the assessee for making deposit on 16.11.2016. Moreover, assessee does not have any source of income from India except with regard to capital gains on sale of property. Taking into account totality of facts, I am of the view that a sum of Rs.2 lakhs is to be given credit as a source of cash deposit made on 16.11.2016.

Accordingly, I sustain the addition of Rs.4 lakhs under section 69A. It is ordered accordingly.

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

*Pronounced in the open court on the date mentioned on the caption page.*

**Sd/-**

**(GEORGE GEORGE K)**  
**Vice President**

Bangalore.

Dated: 29.11.2023.

/NS/\*

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|---------------|------------------------|
| 1. Appellants | 2. Respondent          |
| 3. DRP        | 4. CIT                 |
| 5. CIT(A)     | 6. DR,ITAT, Bangalore. |
| 7. Guard file |                        |

By order

Assistant Registrar,  
ITAT, Bangalore.