

therefore, felt constrained to treat the deposits made during demonetisation as unexplained cash deposits. Learned Assessing Officer accordingly passed the assessment order by adding the entire Rs. 14.95 lakhs to the income of the assessee by invoking provisions of section 69A of the Income Tax Act, 1961 ('the Act').

3. Aggrieved, assessee preferred appeal before the learned CIT(A) and pleaded that he is an agriculturist possessing 13.66 acres of agricultural land out of which, five acres is orange garden, from which he gets about Rs.3 lakhs per acre. Groundnuts were grown in the balance of the land and he got about Rs.30,000 per acre. He used to keep the money in his house without depositing it in any bank mainly because there is no bank in his village and the nearest bank is in Kallur, which is about 15 KMs from his village. He further submitted that one of his sons has been working in USA, and sends money for the purpose of which, he opened a savings bank account in State Bank of India at Kallur on 12/02/2010 to enable his son to send money. His son sent money to him on different dates during the financial year 2016-17 relevant for the assessment year 2017-18. Assessee withdrew the amounts received from his son after receipt and kept them with him and the last withdrawal, before demonetization, was Rs. 4,00,000/- on 08/11/2016. Assessee was forced to deposit after demonetization, the demonetized notes, and the total of such deposits was Rs.13,95,000/- on 10/11/2016. Further plea of the assessee is that since he is an illiterate and not well-versed in operating e-mail etc., he did not see the notices sent by the department and it is only at a belated stage he came to know of the proceedings. He explains that it is the reason for delay in filing the appeal also.

4. Insofar as the delay is concerned, on the very same grounds, learned CIT(A) condoned the delay explained as the result of the incapacity of the assessee to handle the electronic mode of notices. The very same reason is attributed now to the delay before me. I am also convinced that the delay caused in filing this appeal is properly explained and, therefore, condone the delay and proceed to hear the appeal on merits.

5. Learned AR submitted that the assessee is 76 years of age and claims to be an agriculturist for eking out his livelihood possessing about 13.5 acres by producing oranges etc. He further submitted that there is nothing suspicious for an agriculturist with about 13 acres of agricultural land with one son working in USA to possess cash with him at a place where no banking facility was available. He specifically argued that when there is no allegation of deposit of specified notes, no malafides could be attributed to the assessee.

6. Per contra, it is the vehement argument of the learned DR that when the learned Assessing Officer asked for evidence to support the deposits during the demonetization period, it is for the assessee to furnish such evidence and since the assessee did not comply with the direction of the learned Assessing Officer, learned Assessing Officer rightly added the amount. He further submitted that when the learned CIT(A) has taken a liberal and pragmatic view to delete the addition to the extent of Rs. 4 lakhs, without producing any evidence to say that the balance amount represents the agricultural proceeds, the assessee cannot have any grievance against the impugned order.

7. I have gone through the record in the light of the submissions made on either side. In this case, Revenue does not dispute the submission made by the assessee as to the agriculture and possessing agricultural land and living by selling the agricultural produce. According to the assessee, he does not keep the money in bank and he withdraws the money sent by his son from USA and has been in the habit of keeping it with him. This fact is evidenced by the withdrawal of Rs. 4 lakhs by the assessee sent by his son from USA on 08/11/2016, which was accepted by the learned CIT(A), to have deposited in bank on 10/11/2016.

8. When once there is no reason to disbelieve the habit of the assessee to keep the cash with him because no banking facilities were available in his village and for such facility, he has to travel to Kallur, there is no reason for me not to believe his statement that as on the date of demonetization, still there was a cash of Rs. 9.95 lakhs available with him which he was forced to deposit in the bank on 10/11/2016 on the event of demonetization of specified notes. It could be seen from the assessment order that it is not the case of the learned Assessing Officer that what all the cash that was deposited by the assessee was in specified notes. Whatever the cash that was available with the assessee he deposited the bank at the earliest possible time i.e., on 10/11/2016.

9. Revenue also does not say anything as to the non-availability of banking facility at the place of the assessee. In those circumstances, an agriculturist possessing about 13 acres of land, possessing a sum of about Rs. 9 lakhs is nothing suspicious. It shall be kept in mind that it is only under compelling circumstances of demonetization the assessee deposited the amount in bank.

10. For the above reasons, I am of the considered opinion that there is nothing suspicious in the deposits made by the assessee and the addition cannot be sustained and the same is directed to be deleted. I hold and order so.

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

Order pronounced in the open court on this the 12th day of December, 2023.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 12/12/2023

TNMM

Copy forwarded to:

1. Kadiri Suryanarayana Reddy, C/o. Katrapati & Associates,
1-1-298/2/B/3, Sowbhagya Avenue Apts, 1st Floor, Ashok Nagar,
Hyderabad.
2. Income Tax Officer, Ward-2, Ananthapur.
3. Pr.CIT
4. DR, ITAT, Hyderabad.
5. GUARD FILE

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD