

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES “SMC”, HYDERABAD**

**BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER**

ITA No.578/Hyd/2023		
Assessment Year: 2017-18		
Rapolu Narayana Reddy, 12-1-80/10, SK Shivani Nagar, GSI Road, Bandlaguda, Telangana. PAN : AFVPR3060F.	Vs.	The Income Tax Officer, Ward -13(5), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Sri A. Srinivas, C.A.	
Revenue by:	Sri Harshita Chouhan, SR.AR	
Date of hearing:	26/12/2023	
Date of pronouncement:	27/12/2023	

**ORDER**

**PER LALIET KUMAR, J.M.**

The appeal of the assessee for A.Y. 2017-18 arises from the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dt.29.10.2023 invoking proceedings under section 143(3) of the Income Tax Act, 1961 (in short, “the Act”).

2. The only effective ground raised by the assessee reads as under :

*“ The Appellate Commissioner erred in confirming an amount of Rs.14,00,000/- u/s 69A of the Income Tax Act.”*

2. The brief facts of the case are that the assessee is an individual and retired employee of Andhra Pradesh State Road Transport Corporation (APSRTC) has filed the return of income with a total income of Rs 7,88,390/-. The assessee made cash deposits of Rs.21,50,000/- during the demonetization period. Subsequently, the case was selected for limited scrutiny under CASS and issued notices notice u/s 143(2) of the Income Tax Act, 1961 and notice u/s 142(1) was issued for calling of information. In response to the said notice, assessee has submitted the information called for. Thereafter, Assessing Officer issued a show cause notice on 01.12.2019 proposing to add the total amount of cash deposit of Rs.21,50,000/- as unexplained income u/s 69A of the Income Tax Act, 1961. The assessee replied to the above said show cause notice explaining the nature and source of such cash deposits. However the Assessing Officer completed the assessment by treating only Rs.2,50,000/- as explained income out of the total cash deposit of Rs.21,50,000/- and added the balance amount of Rs.19,00,000/- to the total income by treating it as unexplained cash u/s 69A of the Act. Accordingly, he completed the assessment by making addition of RS.19,00,000/- and passed the assessment order u/s 143(3) of the Income Tax Act vide order dt. 10.12.2019

3. Feeling aggrieved with the order of Assessing Officer, assessee filed an appeal, which was later migrated to the Id.CIT(A), NFAC, Delhi, who granted part relief to the assessee.

4. Before me, Ld.A.R. has submitted that during the appellate proceedings, the assessee filed an application on 20.10.2023 for admitting additional evidence whereby the assessee sought to place on record, two sale deeds where the cash amount of Rs.2,68,000/- and Rs.18,68,000/- were received by the assessee at the time of registration of sale deeds vide bearing nos.4574/2016 and 4575/2016, respectively. Ld. AR further submitted that Ld.CIT(A) did not make any observation on the additional evidence and confirmed the addition in the hands of the assessee to the tune of Rs.14,00,000/-. The contention of the learned Authorised Representative is that the Ld.CIT(A) has a bounden duty to consider the application of assessee for additional evidence and decide the issue accordingly. It was also the contention of the learned Authorised Representative that this Tribunal can also adjudicate the issue after considering the documents which are registered in nature and have evidentiary value.

5. Per contra, the Ld. D.R. submitted that the assessee did not take up this defense of receiving cash pursuant to the sale deeds at the assessment stage. A contrary stand was taken by the assessee in the assessment stage, and therefore, the assessee is not permissible to take this stand now. Further, ld. DR has also submitted that if the assessee has taken this stand before the Assessing Officer which is in violation of Section 271D of the Act at the assessment stage, the Assessing Officer would have initiated penalty proceedings at that stage. The Ld. D.R. submitted that now if the opportunity is granted to the assessee, then it is nothing but

giving premium to the assessee to violate the law. Further, it was submitted that no ground for violation of Rule 46A was raised by the assessee before the Tribunal.

6. In rebuttal the learned Authorised Representative has submitted that the matter may be remanded back to the file of Ld.CIT(A) with a direction to seek the remand report from the Assessing Officer.

7. I have heard both sides and perused the material available on record. I have perused the application dt.20.10.2023 filed before the Ld.CIT(A). The Ld.CIT(A) despite uploading the application for filing additional evidence by the assessee has failed to consider the same. Therefore, there is a gross violation of principles of natural justice by Revenue, in not deciding the issue by admitting or rejecting the application for additional evidence filed by the assessee. Further, I am of the considered opinion that rules for admitting additional evidence are a hand-made tool for imparting the justice. Rules are not a shackle or impediment in providing the justice. Rules should be liberally applied so that the correct income of the assessee is brought to tax after granting the fair opportunity of hearing to the assessee. Unfortunately, in the present case, a fair opportunity has not been granted by the ld.CIT(A) by admitting the additional evidence filed by the assessee. Therefore, this is a fit case to admit the additional evidence filed by the assessee before the Ld.CIT(A).

9. The documents now relied upon by the assessee are in the nature of registered sale deeds which show that the assessee had received an amount of Rs.18,68,000/- and Rs.2,68,000/- as GPA Holder of Smt. N. Sessa Padma W/o. N. Krishna Rao. In my understanding, the amount received by a GPA Holder cannot be said to be the amount received with the assessee. The GPA Holder is only an agent appointed to act and discharge certain duties on behalf of the registered owner or the vendor. The amount received by the assessee as a GPA Holder cannot be said to be the amount received by the assessee. Therefore, in my considered opinion, the entire amount claimed by the assessee cannot be said to be the amount of the assessee. However, if at this stage, I remand back the matter to the file of Ld.CIT(A) for afresh adjudication, the “loser” will be the assessee, who is a senior citizen of more than 65 years. Considering the two registered sale deeds and the totality of the facts that assessee has produced two registered sale deeds in the name of Smt. N. Sessa Padma for whom the assessee was agent, liberal view is required to be taken. In these circumstances, I feel that equality and substantial justice would be met if an amount of Rs.6 lakhs is deleted. Accordingly, an amount of Rs.6 lakhs is deleted and the remaining amount of Rs.8 lakhs is confirmed. Thus, the appeal of the assessee is partly allowed.

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

Order pronounced in the Open Court on 27<sup>th</sup> December, 2023.

Sd/-  
**(LALIET KUMAR)**  
**JUDICIAL MEMBER**

Hyderabad, dated 27<sup>th</sup> December, 2023.

***TYNM/sps***

Copy to:

S.No	Addresses
1	Rapolu Narayana Reddy, 12-1-80/10, SK Shivani Nagar, GSI Road, Bandlaguda, Telangana.
2	The Income Tax Officer, Ward -13(5), Hyderabad.
3	PCIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*