

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

Vijay Prakash Mantri, Hyderabad [PAN : ADXPM2984R]	Vs.	Income Tax Officer, Ward-6(4), Hyderabad
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri S. Phanindra, AR
राजस्व द्वारा/Revenue by: Shri A. Suresh, DR

सुनवाई की तारीख/Date of hearing: 10/01/2024
घोषणा की तारीख/Pronouncement on: 12/01/2024

आदेश / ORDER

Aggrieved by the order dated 30/10/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Vijay Prakash Mantri ("the assessee") for the assessment year 2017-18, assessee preferred this appeal.

2. Brief facts of the case are that the assessee is an individual. For the assessment year 2017-18, he did not file his return of income. Learned Assessing Officer, however, came to know that during the financial year 2016-17 relevant to assessment year 2017-18, the assessee made cash deposits into the bank accounts during the demonetization period, and, therefore, issued notice under section 142(1) of the Income Tax Act, 1961

('the Act'). As the assessee failed to furnish his return of income for the assessment year 2017-18 within the due date of filing the return of income under section 139(1) of the Act duly disclosing the nature of deposits reflected in the bank account and sources of deposit made, learned Assessing Officer completed the assessment under section 144 of the Act determining the total income of at Rs. 23,03,706/- by making an addition of business income estimated @ 8% of total receipt of Rs. 1,11,75,956/- i.e. Rs. 8,94,076/- and Rs. 14,09,000/- on account of unexplained money under section 69A read with section 115BBE of the Act.

3. Assessee preferred appeal before the learned CIT(A). Learned CIT(A) recorded that in spite of granting several adjournments, the assessee failed to appear and prosecute his case and, therefore, on a perusal of record, learned CIT(A) found no reasons to interfere with the assessment order and accordingly while upholding the additions, he dismissed the appeal.

4. Hence, the assessee filed this appeal before this Tribunal contending that having accepted the fact that the assessee has been deriving business income from medical shops, the authorities below should have realized that such business income flows even during the demonetization period also. Learned AR further submitted that learned Assessing Officer accepted the total receipts during the year were to the tune of Rs. 1,25,84,956/- out of which a sum of Rs. 14,09,000/- was received in bank during the demonetization period, but without assigning any reason, the learned Assessing Officer set apart this Rs. 14,09,000/- to be added under section 69A of the Act merely on the ground that amount was received during demonetization period. According to him, since the

medical shops are authorised to receive the specified bank notes during the demonetization period by virtue of notification in S.O. 3416(E), dated 09/11/2016 issued by the Ministry of Finance, there was no bar for the assessee to receive even the specified bank notes, but as a matter of fact, there is no such allegation of deposit in specified bank notes in this case.

5. Per contra, learned DR justified the orders of the authorities below on the ground that in spite of notices issued by the authorities, the assessee failed to appear and explain his case before them and in the absence of any explanation, the authorities are justified in making and sustaining the addition.

6. I have gone through the record in the light of the submissions made on either side. There is no dispute that the assessee has been running medical shops and deriving business income which the learned Assessing Officer accepted to the tune of Rs. 1,11,75,956/- out of the total deposits of the year to the tune of Rs. 1,25,84,956/- and the balance of Rs. 14,09,000/- is added separately under section 69A of the Act merely because such amounts were deposited during demonetization period. There is no allegation of deposit of specified bank notes and even if it is there, it is not sustainable in view of the notification cited by the learned AR.

7. Having accepted the assessee to have been deriving business income and accepting all the deposits in the bank, except such deposits made during the demonetization period, the learned Assessing Officer estimated the income of the assessee at 8% on gross receipts. There is no dispute as to this rate of estimation and I accept the same. But insofar as

Rs. 14,09,000/- is concerned, learned Assessing Officer added the same under section 69A of the Act, on the ground that such deposits are not explained, nor the money was offered to tax. I agree with the learned DR that it is a verifiable fact. Learned AR submits that an opportunity may be granted to the assessee to appear before the learned Assessing Officer and explain the receipts during the demonetization period.

8. I, therefore, set aside the impugned order and restore the issue relating to the addition of Rs. 14.09 lakhs, to the file of the learned Assessing Officer for verification and taking a view after affording an opportunity to the assessee. Grounds are accordingly treated as allowed for statistical purposes.

9. In the result, appeal of the assessee is treated allowed for statistical purposes.

Order pronounced in the open court on this the 12th day of January, 2024.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 12/01/2024

TNMM

Copy forwarded to:

1. Vijay Prakash Mantri, Shop No. 32, 8-3-945, New Science College Line, Yaseen Complex, Ameerpet, Hyderabad.
2. Income Tax Officer, Ward-6(4), Hyderabad.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ASSISTANT REGISTRAR
ITAT, HYDERABAD