

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

Before Shri R.K. Panda, Vice-President
AND
Shri Laliet Kumar, Judicial Member

आ.अपी.सं / **ITA No. 340/Hyd/2023**
(निर्धारण वर्ष / Assessment Year: 2015-16)

Shri Sampath Suddala Karimnagar PAN:BACPS3467C	Vs.	Asstt. C. I. T. Circle 1 Karimnagar
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	Shri Sampath Suddala, Assessee	
राजस्व द्वारा / Revenue by::	Smt. Sheetal Sarin, DR	
सुनवाई की तारीख / Date of hearing:	04/03/2024	
घोषणा की तारीख / Pronouncement:	13/03/2024	

आदेश/ORDER

Per R.K. Panda, Vice-President

This appeal filed by the assessee is directed against the order dated 09/05/2023 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2015-16.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the order of the learned CIT (A) NFAC in confirming the addition of Rs.52,30,000/- made by

the Assessing Officer as unexplained cash and another addition of Rs.96,000/- made by the Assessing Officer as commission income.

3. Facts of the case, in brief, are that the assessee is an individual and filed his return of income on 23.03.2017 declaring total income of Rs.10,00,320/-. The case was selected for scrutiny under CASS. Statutory notices u/s 143(2) & 142(1) were issued and served on the assessee. During the course of assesment proceedings, the Assessing Officer noted that the assessee has made cash deposit of Rs.86,06,250/- in his bank account. On being asked by the Assessing Officer to explain the source of such cash deposit in the Bank Account, the assessee explained that the same is out of withdrawal from various Bank Accounts on different dates and also Rs.20.00 lakhs received from his uncle and his friend. The assessee also filed a note on such cash deposit along with the dates of withdrawal from various bank accounts.

4. However, the Assessing Officer was not fully satisfied with the explanation given by the assessee. According to him, the explanation for the deposits-withdrawal gap of 30 days is considered reasonable to meet the ends of justice. Accordingly, the cash deposits with the sources of withdrawal up to 30 days were treated as from explainable sources and the remaining amounts are added back as unexplained credits. So far as the explanation of the assessee that the amount of Rs.20,00,000/- received from his uncle and his friend is concerned, in absence of

any satisfactory explanation regarding the genuineness and creditworthiness of the loan creditors, the Assessing Officer rejected the said explanation. Accordingly, the Assessing Officer made addition of Rs.52,30,000/- out of the cash deposits of Rs.86,06,250/-.

5. Similarly, the Assessing Officer observed from the income and expenditure statement for the financial year 2014-15 that the assessee has shown gross commission receipts from M/s. Sannihita Chit Funds Pvt Ltd to the tune of Rs.4,72,000/-. However, as per Form No.26AS, such commission receipts from M/s. Sannihita Chit Funds (P) Ltd is shown at Rs.5,68,000/-. In absence of any satisfactory explanation given by the assessee, the Assessing Officer made addition of Rs.96,000/- to the total income of the assessee. Thus, the Assessing Officer determined the total income of the assessee at Rs.63,26,320/- as against the returned income of Rs.10,00,320/-.

6. In appeal, due to non-submission of any reply to the various notices issued by the learned CIT (A) NFAC, the learned CIT (A) NFAC dismissed the appeal filed by the assessee.

7. The learned Counsel for the assessee submitted that the learned CIT (A) has issued only 3 notices fixing the compliance on 21.10.2021, 18.04.2022 and 08.05.2023 and passed the order on 9/5/2023 in absence of any reply from the side of the assessee. He submitted that the learned CIT (A) NFAC has not

decided the appeal on merit and has dismissed the appeal on account of non-appearance by relying on various decisions. He submitted that in the interest of justice, the assessee should be given a last opportunity to substantiate his case.

8. The learned DR, on the other hand, strongly opposed the arguments advanced by the learned Counsel for the assessee. He submitted that despite 3 opportunities granted by the learned CIT (A) NFAC to the assessee, for submission of details, the assessee has not submitted any details for which the learned CIT (A) NFAC was constrained to dismiss the appeal.

9. We have heard the rival arguments made by both the sides, perused the orders of the AO and the learned CIT (A) and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us by both sides. We find the AO in the instant case, in absence of any satisfactory explanation given by the assessee towards cash deposit, made addition of Rs.53,26,000 as unexplained cash deposits in the Bank Account out of the total deposit of Rs.86,06,250/-. Similarly, due to the discrepancy in the commission income declared in the Income and Expenditure Account and the commission income reflected in Form 26AS, the Assessing Officer made addition of Rs.96,000/- to the total income of the assessee. We find due to non-submission of the requisite details despite 3 notices issued by the learned CIT (A) NFAC, the learned CIT (A)

NFAC in the ex-parte order passed by him dismissed the appeal. It is the submission of the learned Counsel for the assessee that given an opportunity, the assessee is in a position to explain the source of such cash deposits to the satisfaction of the learned CIT (A) NFAC and also the discrepancy in the commission income declared. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the learned CIT (A) NFAC with a direction to grant one last opportunity to the assessee to substantiate his case by filing the requisite details and decide the issue as per fact and law. The assessee is also hereby directed to file his submissions on the date of hearing without seeking any adjournment under any pretext failing which the learned CIT (A) NFAC is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

10. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 13th March, 2024

Sd/- (LALIET KUMAR) JUDICIAL MEMBER	Sd/- (R.K. PANDA) VICE-PRESIDENT
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Hyderabad, dated 13th March, 2024

Vinodan/sps

Copy to:

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2	ACIT, Circle-1 H.No.2-7-197, Aayakar Bhavan, Karimnagar
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order