

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. 161/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2017-18)

Mr. Chinta Sravan Kumar, Anantapur [PAN : BGNPK7857D]	Vs.	Income Tax Officer, Ward-1, Anantapur
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Mr. Chinta Sravan Kumar,
राजस्व द्वारा/Revenue by: Shri P.V. Subba Raju, DR

सुनवाई की तारीख/Date of hearing: 13/03/2024
घोषणा की तारीख/Pronouncement on: 18/03/2024

आदेश / ORDER

Aggrieved by the order dated 18/12/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Chinta Sravan Kumar (the assessee") for the assessment year 2017-18, assessee preferred this appeal with a delay of three days.

2. In connection with delay in filing the appeal, the assessee filed an affidavit, explaining that due to postal delay and 17/02/2024 & 18/02/2024 being Saturday and Sunday holidays to ITAT, he prayed that delay in filing the appeal is unintentional and inadvertent due to the

circumstances beyond his control. There is no reason as to why this explanation of the assessee cannot be accepted. Though the learned DR opposed to condone the delay, the fact remains that the assessee sent the appeal papers by speed post on 14/02/2024 itself, I condone the delay and proceed to hear the matter on merits.

3. Facts in brief are that, the assessee is an individual, filed his return of income for the assessment year 2017-18 on 05/09/2017 admitting total income of Rs. 5,87,090/-. There was a cash deposit of Rs. 14,24,000/- in his HDFC Bank account and Rs. 7,69,500/- in APG Bank. Assessee pleaded before the learned Assessing Officer that he worked abroad, some amounts were available with him which he deposited in the banks. Learned Assessing Officer, however, recorded that there was no cash balance with the assessee as could be seen from his return of income for the assessment year 2016-17 and even from the return of income, filed after the demonetization period there was no cash in his hand. Further According to the learned Assessing Officer, the assessee admitted the salary of below Rs. 5 lakhs for the assessment year 2016-17 and 2017-18. Learned Assessing Officer, therefore, added the amount in these two accounts to the income of the assessee.

4. In the first appeal, the assessee submitted his bank accounts and also explained the sources of his income, stating that he had withdrawn an amount of Rs. 10 lakhs on 05/10/2016 whereas he had a cash of Rs. 2.33 lakhs in his hand as opening balance. Assessee further submitted that apart from these, he withdrew a sum of Rs. 2.4 lakhs on 19/08/2016, 26/08/2016, 27/08/2016 etc., and put together all these amounts, constitute the source of the deposits to the tune of Rs. 14,73,000/-.

Assessee submitted that in APG Bank, he made a deposit of Rs. 49,000/- only during the demonetization period and rest of the amounts to the tune of Rs. 7,20,500/- were in the month of March, 2017.

5. Learned CIT(A) examined the record and found that the case was selected for limited scrutiny with a reason "to verify cash deposits during demonetization period". Learned CIT(A) further found that out of the total deposits of Rs. 7,69,500/- in the APG Bank, only a sum of Rs. 49,000/- relates to the demonetization period and rest of the amount was deposited during March, 2017 and, therefore, the assessee has to explain only Rs. 49,000/- which put together with the deposit in HDFC Bank to the tune of Rs. 14.24 lakhs amounts to Rs. 14.73 lakhs. Out of this Rs. 14.73 lakhs, learned CIT(A) found as a matter of fact that there is a cash withdrawal of Rs. 10 lakhs on 05/10/2016 and learned CIT(A) believed that this withdrawn amount was re-deposited during demonetization and, therefore, the assessee was entitled to the relief of Rs. 10,000/-.

6. in respect of the balance amount of Rs. 4.73 lakhs, according to the assessee, there was cash balance of Rs. 2.33 lakhs in respect of which learned CIT(A) held that there was no proof and the balance amount of Rs. 2.4 lakhs representing the cash withdrawals on various dates in August, 2016, which the learned CIT(A) did not believe. According to the learned CIT(A) if really the assessee held Rs. 2.23 lakhs in his hands as opening balance, the cash withdrawals during the month of August, 2016 do not make any sense. Learned CIT(A) applied the ratio of the Hon'ble Supreme Court in the case of CIT vs. Durga Prasad More (1971) 82 ITR 440 (SC) and held that it is against the human probabilities. On this score, learned CIT(A) sustained the addition to the tune of Rs. 4.73 lakhs.

7. Assessee is present in person and submitted that the statement of account of HDFC Bank clearly establish cash withdrawals during the month of August, 2016 and there is no reason for the Revenue authorities not to believe these withdrawals as the source of deposits to the tune of Rs. 2.4 lakhs. He also submitted that given an opportunity, he would prove the opening balance of Rs. 2.33 lakhs available in his hands.

8. learned DR vehemently opposed the submissions made by the assessee. According to him, the learned CIT(A) considered all these aspects and while granting relief to the tune of Rs. 17.2 lakhs, refused to believe the contentions of the assessee in respect of the balance of Rs. 4.73 lakhs and, therefore, there are no grounds to interfere with the well reasoned order of the learned CIT(A).

9. I have gone through the record in the light of the submissions made on either side. Learned CIT(A) rightly accepted the withdrawals of Rs. 10 lakhs as the source of deposit during the demonetization period to that extent. Learned CIT(A), however, thought it suspicious that having held the opening balance of Rs. 2.33 lakhs in his hands, the assessee would have withdrew Rs. 2.4 lakhs through ATM in August, 2016. According to me, the reason for withdrawal of Rs. 10 lakhs equally applies to the withdrawal of Rs. 2.4 lakhs, if such withdrawal is proved in the month of August, 2016. I, therefore, am of the considered opinion that if really the assessee withdraw such amounts at any time three or four months prior to the demo at any time three or four months prior to the demonetization period, the same could be accepted, because it is proved before the learned CIT(A) that the assessee deposited the withdrawn amounts on some occasions.

10. With this view of the matter, I restore the issue to the file of the learned Assessing Officer to verify the withdrawals of the assessee within a period of four months before the demonetization period and to the extent of the amount covered by such withdrawals, the addition may be deleted. So also, the assessee shall produce the evidence in respect of the opening balance before the learned Assessing Officer and considering the same, the learned Assessing Officer will give relief accordingly.

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

Order pronounced in the open court on this the 18th day of March, 2024.

Sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 18/03/2024

TNMM

Copy forwarded to:

1. Mr. Chinta Sravan Kumar, 28-3-323, Sarada Nagar, 2nd Main Road, Anantapur.
2. Income Tax Officer, Ward-1, Anantapur.
3. Pr.CIT,
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ITAT, HYDERABAD