

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

Before Shri R.K. Panda, Vice-President

आ.अपी.सं / **ITA No. 192/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2016-17)

Shri Krishna Murthy Arrym Hyderabad PAN:ADEPA9498F (Appellant)	Vs.	Income Tax Officer Ward 9(4) Hyderabad (Respondent)
निर्धारिती द्वारा / Assessee by: Advocate S Sandhya		
राजस्व द्वारा / Revenue by: Smt. Harshita Chouhan, DR		
सुनवाई की तारीख / Date of hearing: 19/03/2024		
घोषणा की तारीख / Pronouncement: 21/03/2024		

आदेश/ORDER

This appeal filed by the assessee is directed against the order dated 29.12.2023 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2016-17.

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.44,89,651/- made by the Assessing Officer as unexplained cash deposit in the Bank Account treating the same as "income from other sources".

3. Facts of the case, in brief, are that the assessee is an individual and filed his return of income on 23.03.2018 declaring

total income of Rs.4,99,530/-. The case was selected for limited scrutiny under CASS to verify the cash deposit during the year. Accordingly statutory notices u/s 143(2) and 142(1) were issued and served on the assessee in response to which the assessee furnished the requisite details as called for.

4. During the course of assessment proceedings, the Assessing Officer noted that the assessee made cash deposits totaling to Rs.1,69,90,690/- into ICICI Bank Account No.000801517691. On being confronted by the Assessing Officer, it was submitted that the same was deposited out of opening cash balance of Rs.9,17,459/-, cash withdrawals from ICICI Bank, UCO Bank, Current Account with ICICI Bank and Cash sales affected. Further, there was also certain collections from sundry debtors which together with available cash balance were deposited into bank account. The assessee also filed a cash flow statement along with source and utilization thereof.

5. However, the Assessing Officer was not satisfied with the arguments advanced by the assessee. He noted that the assessee did not furnish any date-wise source for cash deposits and instead he furnished a consolidated cash flow statement. Further, there are no details like name of the debtor, the bills/ invoice resulting in such debtor, date of payment by the debtor and other such relevant details for which realization of Rs.24,50,000/- is not ascertainable. So far as the cash withdrawn from UCO Bank amounting to Rs.8,40,000/- is concerned, he noted that there were cash deposits of

Rs.6,50,000/- but no cash withdrawals, therefore, the same is not acceptable. So far as the cash withdrawn from ICICI Bank amounting to Rs.66,45,021/- is concerned, the Assessing Officer noted that there are cash withdrawals to the tune of Rs.43,72,000/- as against the claim of Rs.66,45,021/- therefore, the difference amount of Rs.22,73,021 is not available to the assessee for cash deposit. So far as the withdrawal of cash from the current account maintained with ICICI Bank is concerned, the Assessing Officer observed from the available details that these were withdrawn after 28.03.2016 and therefore, the cash deposits made prior to withdrawal from the Bank are not explained. In view of the above, the Assessing Officer made addition of Rs.44,89,651/- to the total income of the assessee out of the total cash deposit of Rs.1,69,90,690/-.

6. In appeal, the learned CIT (A) upheld the order of the Assessing Officer on the ground that the assessee did not submit any evidence to substantiate its case. He accordingly dismissed the appeal filed by the assessee by observing as under:

4.4 I have gone through the assessment order and record available. It is gathered from the assessment order that the appellant failed to file evidences before AO to prove the genuineness of unsecured loan and sundry debtors during the relevant year. I find from the appeal record that a Remand Report was called by the then CIT Appeal -7, Hyderabad vide File number CIT(A)-7/A No. 0142/18-19/Rem.Report/2019-20 dated 27.01.2020. The Remand Report was received on 05.02.2020. In the report, the AO gave following observation:

4.2 On verification of assessment record, it is noticed that the list of sundry debtors as on 31.03.2015 was not furnished by the assessee during the course of assessment proceedings. In view of the above, I concur with the remarks of the Assessing Officer made in the Assessment Order that with regards to

realization of sundry debtors, no details like name of the debtors, bill, date of payment etc. have been filed.

4.3 The assessee was engaged in the business of Kraft paper during the period relevant to Asst. Year 2016-17. As called for, the details of turnover, net profit of the assessee are submitted in the given format as under:

Asst. Year	Returned Income (in Rs.)	Turnover from the business (in Rs.)	Net Profit (in Rs.)	Is it 44AD
2014-15	2,92,310	Not declared	4,15,000	Only net profit from business was offered. Hence, it may be assumed u/s 44AD.
2015-16	4,13,150	Not declared	6,50,000	
2017-18	7,17,030	Not declared	3,40,000	
2018-19	4,89,240	Not declared	5,00,000	

The copy of Returns of Income for the abovementioned years are also submitted herewith as **Annexure-2**.

4.5 During the course of appeal proceedings, the appellant has not submitted any evidence with regard to sundry debtors. In my view, Sundry debtors, also known as accounts receivable, represent amounts owed to a business by customers for goods or services provided. Proper documentation is crucial for maintaining accurate financial records and managing sundry debtors. There are no Sales Invoices: Providing detailed and accurate sales invoices for products or services sold including the date of the transaction, a description of the goods or services, the quantity, unit price, and total amount due. Further, no Delivery/Service Receipts has been submitted to demonstrate that the goods or services were provided to the customer. Presently no Customer Purchase Orders: were submitted alongwith Correspondence and Communication with the customers showing the nature of the transaction. No

Payment Records in the bank statements were produced as proof of payment. The appellant has failed to give a genuine explanation regarding sundry debtors.

4.6 As regards unsecured loans are concerned no Loan Agreements showing outline of the terms and conditions of the loan, including the loan amount, interest rate, repayment terms, and any other relevant details were submitted. No Correspondence with Lender such as emails or letters, which may discuss the loan terms, changes in the agreement, or any other relevant information alongwith Bank Statements to show the deposit of the loan funds into assessee's account could be produced. The appellant has failed to submit any evidence of the loan transaction not even showing earlier Repayment Records. The noncompliance as well as non-transparency and lack of accuracy in the business transactions does not support the case of the assessee. Hence, the grounds taken by assessee are dismissed.

5. As a result, the appeal of the assessee is dismissed.

7. Aggrieved with such order of the learned CIT (A) NFAC the assessee is in appeal before the Tribunal.

8. The learned Counsel for the assessee submitted that although full details were given before the Assessing Officer as well as the learned CIT (A) NFAC however, these were not as per the details they wanted. She submitted that given an opportunity the assessee is in a position to substantiate with evidence to the satisfaction of the learned CIT (A) NFAC such as relevant sales invoice, detailed and accurate sales invoice for the products or services sold including the details of description of the goods or services, the quantity, unit price and total amount due etc. Similarly, the assessee is also in a position to file the copies of the loan agreement showing the terms and conditions of the loan including the loan amount, interest rate, repayment terms and other relevant details. He submitted that due to non-submission of the supporting evidences, the learned CIT (A) NFAC dismissed the appeal filed by the assessee. However, the turnover of the

assessee has not been disputed, the books of account are audited and the assessee is in a position to produce the books of account before the learned CIT (A) NFAC. She accordingly submitted that in the interest of justice, the assessee should be given an opportunity to substantiate its case.

9. The learned DR, on the other hand, heavily relied on the order of the Assessing Officer and the learned CIT (A) NFAC. She submitted that despite given number of opportunities, the assessee did not produce any supporting evidence to substantiate the source of such cash deposit. Since the order of the learned CIT (A) NFAC is a reasoned one, therefore, the same should be upheld and the grounds raised by the assessee should be dismissed.

10. I 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. I find the AO in the instant case made addition of Rs. 44,89,651/- being the unexplained cash deposited in ICICI Bank Account No. 000801517691 on the ground that the assessee could not explain the source of such cash deposits out of the total deposits of Rs.1,69,90,690/-. I find the learned CIT (A) NFAC upheld the action of the Assessing Officer, the reasons of which have already been reproduced in the preceding paragraph. It is the argument of the learned Counsel for the assessee that given an opportunity, the assessee is in a position to substantiate with evidence to the satisfaction of the lower authorities by giving full details of the

realization from sundry debtors by producing the date of sale, description of the goods or services, quantity/unit of price, total amount due along with delivery/service receipts. It is also the submission of the learned Counsel for the assessee that given an opportunity, the assessee is in a position to furnish the loan agreement showing the terms & conditions including the loan amount, loan interest rate and repayment etc. Considering the totality of the facts of the case and in the interest of justice, I deem it proper to restore the issue to the file of the learned CIT (A) NFAC with a direction to give one final opportunity to the assessee to substantiate his case by filing the requisite details to his satisfaction. The assessee is also hereby directed to submit the requisite details 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. Learned CIT (A) NFAC shall decide the issue as per fact and law after giving due opportunity of being heard to the assessee. I hold and direct accordingly. The grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the Open Court on 21st March, 2024.

Sd/-

(R.K. PANDA)
VICE-PRESIDENT

Hyderabad, dated 21st March, 2024

Vinodan/sps

Copy to:

S.No	Addresses
1	Shri Krishna Murthy Arrym, 11-15-57/9 Saroornagar, Doctors Colony, Hyderabad
2	Income Tax Officer Ward 9(4) IT Towers, Hyderabad
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order