

आयकरअपीलीयअधिकरण, विशाखापटणमपीठ, विशाखापटणम

IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM

श्रीदुव्वूरुआरएलरेड्डी, न्यायिकसदस्यएवंश्रीएसबालाकृष्णन, लेखासदस्यकेसमक्ष

BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER &
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

आयकरअपीलसं./ I.T.A. No.234/Viz/2023

(निर्धारणवर्ष/ Assessment Year : 2017-18)

Mahesh Kudaravalli,
Tenali.

PAN: BBPPK 3773 H

(अपीलार्थी/ Appellant)

अपीलार्थीकीओरसे/ Assessee by

प्रत्यार्थीकीओरसे/ Revenue by

Vs. Income Tax Officer,
Ward-1,

Tenali.

(प्रत्यर्थी/ Respondent)

Sri GVN Hari, AR

Dr. Aparna Villuri, Sr. AR

सुनवाईकीतारीख/ Date of Hearing

: 27/03/2024

घोषणाकीतारीख/Date of

: 04/04/2024

Pronouncement

ORDER

PERS. BALAKRISHNAN, Accountant Member :

This appeal is filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'Ld. CIT(A)-NFAC'] in DIN & Order No. ITBA/NFAC/S/250/2022-23/1054288443(1), dated 11/07/2023 arising out of the order passed U/s. 143(3) of the

Income Tax Act, 1961 [in short 'the Act'], dated 18/12/2019 for the AY 2017-18.

2. At the outset, it is noticed from the record that there is a delay of 01 day in filing the appeal before the Tribunal. With respect to the belated filing of the appeal, the assessee filed petition for condonation of delay wherein it was submitted that the assessee suffered from viral fever and was under treatment and bed rest as advised by the Doctor during the period 5/9/2023 to 11/9/2023 (copy of the Medical Certificate is enclosed). On perusal of the reasons advanced by the assessee, we find that there is a reasonable and sufficient cause that prevented the assessee in filing the appeal beyond the prescribed time limit with a delay of 01 day. Accordingly, we hereby condone the delay and proceed to adjudicate the appeal on merits.

3. Briefly stated the facts of the case are that the assessee is an individual e-filed his return of income for the AY 2017-18 on 22/01/2018 admitting taxable income of Rs. 11,34,970/- from 'salary' and 'other sources' after claiming deduction under Chapter-VIA of the Act to tune of Rs. 1,63,000/-. The return was selected for limited scrutiny for examination of 'cash deposits

during demonetization period'. Accordingly, notice U/s. 143(2) was issued on 9/8/2018 and the same was duly served on the assessee on 13/08/2018. Thereafter, notice U/s. 142(1) of the Act was also issued and called for certain information as the Department obtained information that the assessee made cash deposit of Rs. 13,03,000/- during demonetization period. In response, the assessee submitted that he sold a property at Vijayawada for a total consideration of Rs. 50,00,000/- and received sale consideration by way of Demand Draft (DD) dated 11/05/2016 for an amount of Rs. 40,00,000/- and the same was credited in his bank account with Central Bank of India on 12/5/2016. With respect to the balance amount, the assessee submitted that Rs. 8,00,000/- was received in cash and deposited the same on 18/5/2016 and the remaining amount of Rs. 2,00,000/- received as advance for the property sold during the FY. The assessee further submitted before the Ld. AO that the cash deposit of Rs. 13,03,000/- was made during the demonetization period out of the funds withdrawn for Rs. 25 lakhs through the assessee's mother. In this regard, the assessee's explanation was called for to substantiate his claim with supporting documentary evidence. After considering the assessee's submissions, the Ld. AO came to a conclusion that the

assessee failed to explain the source for cash deposits made during the demonetization period to the extent of Rs. 13,03,000/- and accordingly the Ld. AO considered the same amount as the deemed income of the assessee for the AY 2016-17 and brought to tax U/s. 69A of the Act towards unexplained money and passed the assessment order U/s. 143(3) of the Act dated 18/12/2019. Aggrieved by the penalty order of the Ld. AO, the assessee filed an appeal before the Ld. CIT(A)-NFAC. On appeal, after considering the submissions of the assessee, the Ld. CIT(A)-NFAC dismissed the assessee's appeal vide order dated 11/07/2023. On being aggrieved by the order of the Ld. CIT(A)-NFAC, the assessee is in appeal before the Tribunal by raising the following grounds of appeal:

- “1. The appeal order passed U/s. 250 of the Act by the Ld. CIT(A)-NFAC, Delhi is contrary to the law and facts of the case.*
- 2. The Ld. CIT(A)-NFAC, Delhi is not justified in dismissing the appeal filed by not taking the submissions filed fully into consideration. Hence the appellant prays for relief.*
- 3. The Assessing Officer has erred in making an addition of Rs. 13,03,000/- as unexplained income U/s. 69A of the Act in the Assessment Order passed U/s. 143(3) of the Act and the Ld. CIT(A)-NFAC, Delhi is not justified in confirming the same. The total cash deposits during the demonetization period were Rs. 13,03,000/- and the same were out of the cash withdrawn by the appellant of Rs. 25,00,000/- from his own bank account just two months before the demonetization period. The same has been substantiated with supporting evidences and explanations, which was not considered by the Ld. CIT(A)-NFAC, Delhi in his order passed U/s. 250 of the Act. Hence, the appellant prays for relief.*
- 4. For these and other grounds that may be urged at the time of appeal hearing, the appellant prays relief.”*

4. At the outset, the Ld. AR argued that the assessee has withdrawn cash of Rs. 25 lakhs on 26/08/2016 for the treatment of the mother of the assessee Smt. Kudaravalli Bhavani Devi. The Ld. AR also produced Medical Records wherein the assessee has spent an amount of Rs. 11,97,000/- [Rs. 25,00,000 – Rs. 13,03,000] towards medical expenditure and other expenditure for the mother of the assessee. The Ld. AR also submitted that subsequent to the announcement of demonetization of Specified Bank Notes [SBNs] and non-availability of New Notes for the continuation of the treatment, the assessee has kept an amount of Rs. 13,03,000/- and has deposited it on various dates into the bank account of the assessee subject to the availability of New Notes for undergoing the treatment purposes. Therefore, the Ld. AR pleaded that since the deposits have been explained no addition needs to be made.

Per contra, the Ld. Departmental Representative [DR] relied on the orders of the Ld. Revenue Authorities.

5. We have heard both the sides and perused the material available on record as well as the orders of the Ld. Revenue Authorities. It is an undisputed fact that the assessee's mother Smt. Kudaravalli Bhavani Devi was undergoing treatment for

“Guillain-Barré syndrome (GBS)” on various dates and was admitted to the hospital. The Ld. AR has produced her Medical Records in support of his argument. Even though this Bench has taken a view to allow only first cash deposits, out of earlier cash withdrawals, deposited during the demonetization period, considering the peculiar facts and circumstances of the instant case, we are of the view that the cash deposit made by the assessee on various dates was retained by the assessee to pay for various medical expenses of the assessee’s mother due to non-availability of New Notes during the initial demonetization period. We are therefore inclined to allow the grounds raised by the assessee and delete the addition made by the Ld. AO U/s. 69 of the Act considering the peculiar facts and circumstances of the case. It is ordered accordingly.

6. In the result, appeal of the assessee is allowed.

Pronounced in the open Court on 04th April, 2024.

Sd/-

(दुव्वूरु आर एल रेड्डी)
(DUVVURU RL REDDY)

न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(एस बालाकृष्णन)
(S.BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

Dated :04.04.2024

OKK - SPS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee–Mahesh Kudaravalli, 19-15-39, Lakshmi Enclave Bose Road, Tenali, Andhra Pradesh – 5322201.
2. राजस्व/The Revenue – Income Tax Officer, Ward-1, Tenali O/o. ITO, OPP. Sai Baba Temple, Bose Road, Tenali, Andhra Pradesh – 522201.
3. The Principal Commissioner of Income Tax,
4. आयकरआयुक्त (अपील)/ The Commissioner of Income Tax
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम/ DR,ITAT, Visakhapatnam
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam