

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “SMC”, HYDERABAD
(Through virtual hearing)**

BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.245/Hyd/2024		
Assessment Year: 2016-17		
Shankar Reddy Marreddy, 16-11-16V, R.T.A. Office Back Lane, Hyderabad. Telangana – 500036. PAN : ATTPM6238Q	Vs.	The Income Tax Officer, Ward – 9(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:		Shri K. Abhiroop Bhargav, C.A.
Revenue by:		Shri Mookambikeyan, Sr.AR
Date of hearing:		03.04.2024
Date of pronouncement:		03.04.2024

ORDER

PER LALIET KUMAR, J.M.

The appeal of the assessee for A.Y. 2017-18 arises from the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dt.16.01.2024 invoking proceedings under section 144 of the Income Tax Act, 1961 (in short, “the Act”).

2. The grounds raised by the assessee read as under :

“ That on facts and circumstances of the case and in law, the Order u/ s 144 of the Income-Tax Act, 1961 (Act) is bad in law;

2. That on the facts and circumstances of the case, the Ld.AO/ CIT(A) erred in carrying out an addition towards unexplained money under Section 69A of the Act amounting to Rs.

3. That on the facts and circumstances of the case, the Ld.AO/ CIT(A) erred in not allowing deduction under Section 80C and Section 80D of the Act aggregating to an amount of IRS,

4. That on the facts and circumstances of the case, the Ld.AO/CIT(A) have erred in levy of interest under Section 234A and Section 234B of the Act.”

3. The brief facts of the case are that on verification of the information available with the department, it was found that assessee has credited funds in his bank accounts held with HDFC Bank to the tune of Rs.13,69,500/- during the demonetization period and also found that assessee has not filed return of income for the year under consideration. Hence, a notice u/s 142(1) of the Act dated 13/03/2018 was issued to the assessee calling for return of income for the assessment year 2017-18. However, the assessee did not reply even after grant of sufficient opportunities. Hence, a final show cause notice dated 22.12.2019 was issued to the assessee requesting to provide the information. However, even after the date mentioned in the show-cause notice, the assessee did not file the information as on the date of passing the assessment order. As the assessee has not provided any document / evidence in support of his claims the entire cash deposits of Rs.13,69,500/- was treated as

undisclosed income of the assessee for the FY 2016-17 relevant to the AY 2017-18 and accordingly brought to tax u/s 69A of the I.T.Act, 1961. Thus, the Assessing Officer completed the assessment u/s 144 of the Act and passed order on 26.12.2019 determining the total tax payable amount at Rs.12,95,824/-.

4. Feeling aggrieved with the order of Assessing Officer assessee filed an appeal before the Id.CIT(A), NFAC, Delhi, who dismissed the appeal of assessee.

5. Before me, Id. AR has submitted that the cash deposits in question pertains to past savings, rental income received in cash and cash sale on agricultural products. The past savings were deposited by the assessee in his bank during the period of demonetisation. He further submitted that assessee has filed return of income for four years, where the agricultural income on cash basis was shown. The Id. AR further submitted that though the Assessing Officer has also mentioned in assessment order that the assessee has agricultural income from 26 acres however, he ignored the same stating that there was no supporting document and evidence to substantiate his case of sale of agriculture produce in cash. The Id. AR pleaded that considering the above facts and circumstances, the addition of unexplained income was unwarranted and should be deleted.

6. Per contra, the Id. DR has relied upon the orders of lower authorities.

7. I have heard the rival submissions and perused the material on record. In the present case, the total addition made by the Assessing Officer and confirmed by the Id.CIT(A) was for a sum of rupees 13,69,500/-. The said amount was deposited by the assessee in his account during the demonetization period. The explanation of the assessee was that he is a regular income tax payer and was filing the return of income for the last 4 years. Out of the last 4 years, returns for two years were filed belatedly after lapse of two years and for the other remaining two years, the returns were filed in time, whereby the assessee has shown the agricultural income of Rs.2,35,000/- and Rs.4,15,000/- during those two years. However, there is no denial on the part of the Revenue that the assessee holds 26 acres of agricultural land (refer para 6 of Assessing Officer's order) and there was agricultural income from that agricultural property. It is also not disputed by the Revenue that the assessee has been continuously showing the agricultural income on cash basis for the last two years.

7.1. Now the only question which is for consideration before me is whether the whole amount of Rs.13,69,500/- can be considered as unexplained cash during the period of demonetization. In my view, because of the delayed filing of the return of income by the assessee for the year under consideration and for the year prior thereto, the explanation of the assessee cannot be brushed aside totally. Therefore, I only accept the explanation that the assessee was having agricultural income. Undisputedly assessee had shown agriculture income in cash for two years namely, Rs.2,35,000/- and

Rs.4,15,000/-, which was available, with the assessee from past saving and the same must have been deposited by the assessee in his bank account. Therefore, the assessee is entitled to the benefit of Rs.6,50,000/- being explained income from past agricultural activities. Further, there cannot be denial that agricultural land must have given some yields in other two years, therefore, I estimate the said amount to Rs.1,19,500/- Thus, in my view, the assessee is entitled to total relief of Rs.7,69,500/- out of the total amount of Rs.13,69,500/- and the remaining amount of Rs.6,00,000/- is confirmed. Accordingly, the appeal of the assessee is partly allowed.

8. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the Open Court on 3rd April, 2024.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad, dated 3rd April, 2024.

TYNN/sps

Copy to:

S.No	Addresses
1	Shankar Reddy Marreddy, 16-11-16V, R.T.A. Office Back Lane, Hyderabad. Telangana - 500036.
2	The Income Tax Officer, Ward - 9(1), Hyderabad.
3	Prl.CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order