

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "SMC", HYDERABAD**

**BEFORE  
SHRI MANJUNATHA G. ACCOUNTANT MEMBER**

आ.अपी.सं / **ITA No. 242/Hyd/2024**  
(निर्धारण वर्ष / Assessment Year: 2017-18)

Heritage Estates and Holdings, Vs. Income Tax Officer,  
Hyderabad Ward-14(2),  
[PAN: AABFH1660G] Hyderabad

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा / Assessee by: Shri K.C. Devdas, AR  
राजस्व द्वारा / Revenue by: Ms. Vishnu Priya, DR

सुनवाई की तारीख / Date of hearing: 23-04-2024  
घोषणा की तारीख / Pronouncement on: 23-04-2024

**आदेश / ORDER**

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), Income Tax Department, National Faceless Appeal Centre (NFAC), Delhi, dated 19-01-2024 and pertains to assessment year (AY) 2017-18.

2. The brief facts of the case are that the assessee, M/s. Heritage Estates and Holdings, is engaged in the business of real estate development, did not file its return of income for the AY. 2017-18. As per the information available with the AO, it was found that the assessee has made cash deposits into its bank account during the period of demonetization

amounting to Rs. 48,05,000/-. Therefore, a notice u/s. 142(1) of the Income Tax Act, 1961 ('Act') was issued to the assessee, requiring to file the return of income for the AY. 2017-18. In response to notice, the assessee has filed its return of income on 26/08/2019.

3. The case was selected for scrutiny and during the course of assessment proceedings, bank account statements held by the assessee were obtained by the AO from the banks u/s. 133(6) of the Act. After verifying the bank accounts, it was observed that the assessee has made a cash deposit of Rs. 48,05,000/-. A show cause notice dated 20/08/2019 was issued and called upon the assessee to explain the nature and source of cash deposit into the bank account. In response, the assessee replied that cash deposit into bank account during demonetization period is out of opening cash balance available with the firm, and further, said cash in hand is out of cash withdrawals of Rs. 20 lakhs each withdrawn on 25-04-2014 and 26-04-2014 from bank. The AO, however, was not satisfied with the explanation furnished by the assessee and according to the AO, the assessee could not establish and gave the source of income to prove the availability of opening cash balance as on 01-04-2016, therefore, rejected the explanation of the assessee and made addition towards cash deposit u/s. 69A of the Act as un-explained money and taxed u/s. 115BBE of the Act.

4. Being aggrieved by the assessment order, the assessee preferred appeal before the Ld.CIT(A). Before the Ld.CIT(A),

assessee neither appeared nor filed any details, which is evident from para No. 6.8 of the Ld.CIT(A)'s order, where the first appellate authority had given sufficient opportunity of hearing to the assessee, but no response. Therefore, the Ld.CIT(A) dismissed the appeal filed by the assessee for non-prosecution and upheld the addition made towards cash deposit into bank account during demonetization period. Aggrieved by the order of the first appellate authority, assessee filed this appeal before the Tribunal.

5. The Ld.Counsel for the assessee, Shri K.C. Devdas, submitted that the Ld.CIT(A) is erred in not appreciating the fact that the assessee has filed all the details including relevant extract of cash book to prove that there was a cash in hand as on 01-04-2016, which is in excess of cash deposits into bank account during demonetization period. The Ld.Counsel for the assessee further submitted that although the assessee has not filed the return of income for earlier assessment years, the return of income for the AY. 2017-18 has been filed alongwith supporting financial statements which clearly proves the availability of cash in hand as on 01-04-2016. The Ld.Counsel for the assessee further took us to bank statements and explained that the assessee firm has withdrawn Rs. 20 lakhs each on two occasions in the FY. 2014-15 and the same was available with the assessee firm as on 08-11-2016. Since the announcement of demonetization, cash available with the assessee has been deposited into bank account. The AO and the Ld.CIT(A), without considering the

relevant facts, simply made addition of cash deposited, u/s. 69A of the Act.

6. The Ld.DR, Ms. Vishnu Priya, on the other hand, supporting the orders of the AO and the Ld.CIT(A), submitted that the assessee is a non-filer. The firm has not filed returns of income for the AY. 2012-13 to AY. 2016-17. Although it has filed the return of income for the AY. 2017-18, the said return of income has been filed belatedly. Therefore, the AO has rightly rejected the return of income and relevant financial statement to explain the source for cash deposit. Therefore, she submitted that assessee could not explain the source for cash deposits and thus, the addition made by the AO towards cash deposit u/s. 69A of the Act should be sustained.

7. I have heard both the parties, perused the materials available on record and gone through the orders of the authorities below. There is no dispute with regard to the fact that the appellant claims to have explained the source for cash deposit out of opening cash in hand as on 01-04-2016. In fact the AO himself has recorded categorical finding in his assessment order that the assessee has filed cash book extract and as per such cash book extract, opening cash in hand as on 01-04-2016 was at Rs. 58,45,786/-. Further even in the remand proceedings, the AO confirmed the availability of cash in hand as on 01-04-2016, which is evident from remand report submitted by the AO during appellate proceedings. Therefore, as per the details submitted by the assessee, there is no dispute what-so-ever with regard to the

availability of opening cash in hand as on 01-04-2016 to explain the source for cash deposits of Rs. 48,05,000/- during demonetization period. Therefore, I am of the view that the assessee is able to prove the availability of cash in hand as on 01-04-2016 with known source of income.

8. Admittedly, the assessee did not file its return of income right from the AY. 2012-13 to AY. 2016-17. Although the assessee has filed the return of income. For the AY. 2017-18, but the said return has been filed belatedly. Therefore, in order to verify the availability of cash in hand as on 01-04-2016, the books of accounts maintained by the assessee need to be verified. The assessee has filed cash book extract from FY. 2014-15 to FY. 2016-17. As per cash book extract submitted by the assessee, the assessee was having opening cash in hand of Rs. 58,45,786/- as on 01-04-2016 and source for the said cash in hand, was out of two cash withdrawals of Rs. 20 lakhs each on 25-04-2014 and 26-04-2014 respectively. The cash withdrawals from bank were duly recorded in cash book maintained by the assessee and the same was available as on 08-11-2016. It is not the case of the AO that cash withdrawal from bank on earlier occasions has been spent for some other purpose. Unless the AO makes out the case that cash withdrawn from earlier occasion has been spent for some other purpose, the available cash in hand cannot be ignored for explaining the source for cash deposit during demonetization period. Since the appellant is able to file necessary evidence, including relevant bank statements to

prove the availability of cash in hand as on 08-11-2016 to explain the source for cash deposits, I am of the considered opinion that the AO erred in making the addition towards cash deposit u/s. 69A r.w.s. 115BBE of the Act. The Ld.CIT(A) without considering the facts, simply sustained the addition made by the AO. Thus, I set aside the order of the Ld.CIT(A) and direct the AO to delete the addition made towards cash deposit u/s. 69A r.w.s. 115BBE of the Act.

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

Order pronounced in the open court on this the 23<sup>rd</sup> day of April, 2024.

Sd/-  
**(MANJUNATHA G.)**  
**ACCOUNTANT MEMBER**

Hyderabad,  
Dated: 23/04/2024

*TNMM*

Copy forwarded to:

1. Heritage Estates and Holdings, 8-2-696/697, Road No. 12, Banjara Hills, Hyderabad.
2. Income Tax Officer, Ward-14(2), Hyderabad.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

TRUE COPY

ASSISTANT REGISTRAR  
ITAT, HYDERABAD