

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

Vijay Pratap Kumar Dasari, Hyderabad [PAN: AIMP4761H]	Vs.	Asst. Commissioner of Income Tax, Circle-12(1), Hyderabad
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri T. Chaitanya Kumar, 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), National Faceless Appeal Centre (NFAC), Delhi, dated 31-01-2024 and pertains to assessment year (AY) 2017-18.

2. The brief facts of the case are that the assessee, Vijaya Pratap Kumar Dasari is an employee in L&T Technology Services Limited and is a non-resident for the impugned assessment year. The assessee derives income from salary and income from other sources. For the AY. 2017-18, the assessee had filed return of income declaring an income of Rs. 77,610/-. The case was selected for scrutiny to verify the large

cash deposits during the demonetization period. During the course of assessment proceedings, the AO noticed that the assessee has made cash deposit of Rs. 11,40,000/- to his NRO Account maintained with ICICI Bank Ltd. The AO called upon the assessee to file necessary evidences to prove the source for cash deposit. The assessee neither appeared nor filed any details. Therefore, the AO passed best judgement assessment order u/s. 143(3) r.w.s. 144 of the Income Tax Act, 1961 ('Act') and made addition towards cash deposit of Rs. 11,56,500/- u/s. 69A r.w.s. 115BBE of the Act.

3. Assessee carried the matter in appeal before the first appellate authority. Before the Ld.CIT(A), assessee submitted that source for cash deposits during demonetization period is out of cash withdrawn on 08-11-2016 of Rs. 9 lakhs from the very same NRO Bank account maintained with ICICI Bank. Remaining cash deposits of Rs. 2,56,500/- is out of cash withdrawals from very same bank account and past savings. Ld.CIT(A) after considering the submissions of the assessee, rejected the explanation of the assessee and sustained the addition of cash deposits u/s. 69A of the Act on the ground that the assessee has not been able to file any concrete reasons or explanation as to why the AO's action is unwarranted. The assessee has also not been able to explain the source of cash deposited into his bank account during the corresponding period. Therefore, Ld.CIT(A) sustained the addition made by the AO for cash deposits u/s. 69A r.w.s.

115BBE of the Act. Aggrieved by the order of Ld.CIT(A), assessee preferred appeal before the Tribunal.

4. The Ld.Counsel for the assessee, Shri Chaitanya Kumar, Advocate, referring to paper book filed by the assessee, submitted that assessee being an NRI, derives salary income from a company, does not have any other source of income, except salary income. The Ld.Counsel for the assessee also submitted that the assessee has withdrawn a sum of Rs. 9 lakhs on 08-11-2016, on the date demonetization was announced from the very same ICICI Bank account and immediately after announcement of demonetization, on 11-11-2016, the assessee has deposited a sum of Rs. 9 lakhs into the very same bank account. The Ld.Counsel further submitted that the assessee had also deposited a sum of Rs. 2,40,000/- on 15-11-2016 out of the withdrawals from the very same bank account on earlier occasions. Since the assessee does not have any other source of income, except salary income, the source for cash deposits are out of salary income earned by the assessee from his employment, outside India. The AO and the Ld.CIT(A), without considering the facts, simply made additions towards cash deposited, u/s. 69A of the Act.

5. The Ld.DR, Ms. Vishnu Priya, on the other hand, supporting the order of the Ld.CIT(A), submitted that the assessee did not explain the nature and source of cash deposits into his bank account, which is evident from the *ex parte* order passed by the AO itself. Before the first appellate

authority also, the assessee could not file any evidence, except stating that cash withdrawals from the very same bank as on 08-11-2016. The Ld.DR finally submitted that the Ld.CIT(A), after considering the relevant facts, has rightly upheld the addition made by the AO and their order should be upheld.

6. 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 assessee is an NRI, working for L&T Technology Services Limited, outside India for the impugned assessment year. It is also an admitted fact that the assessee does not have any other source of income, except income from salary from a company. The assessee claims that he has withdrawn a sum of Rs. 9 lakhs on 08-11-2016 from the NRO bank account maintained by the assessee with ICICI Bank and immediately after announcement of demonetization, the very same amount of Rs. 9 lakhs has been deposited by the assessee into his bank account on 11-11-2016. I find that the assessee has filed bank statement of ICICI Bank and as per the said bank statement, the assessee has withdrawn a sum of Rs. 9 lakhs on 08-11-2016 on the date of demonetization. Since the assessee is able to file necessary evidences to prove the sources for the said sum of Rs. 9 lakhs, withdrawn from the very same bank account, I am of the considered view that the Ld.CIT(A) ought to have allowed relief to the assessee to the extent of Rs. 9 lakhs towards cash deposits.

7. As regards the balance cash deposit of Rs. 2,40,000/-, the assessee claims that it is out of previous cash withdrawal from the very same bank account. The assessee has filed bank statement of earlier period and as per the said bank statement, the assessee has periodically withdrawn small amounts of cash from bank account and claimed that out of the savings, the sum of Rs. 2,40,000/- has been deposited into bank account. Considering the nature of income derived by the assessee and the amount of cash deposited, in my considered opinion, the source for cash deposits was out of salary income of the assessee, but not otherwise. Therefore, I am of the considered opinion that the assessee is able to explain the source of cash deposits of Rs. 11,56,500/- from his known sources of income and thus, in my considered view, the AO and the Ld.CIT(A) are erred in making additions towards cash deposited, u/s. 69A of the Act. Thus, I set aside the order of the Ld.CIT(A) and direct the AO to delete the addition made towards cash deposits u/s. 69A r.w.s. 115BBE of the Act.

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

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

Sd/-
(MANJUNATHA G.)
ACCOUNTANT MEMBER

Hyderabad,
Dated: 23/04/2024

TNMM

Copy forwarded to:

1. Vijaya Pratap Kumar Dasari, E-101, Aditya Empress Towers, Shaikpet Nala, Tolichowki, Golconda Post, Hyderabad.
2. Asst. Commissioner of Income Tax, Circle-12(1), Hyderabad.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ITAT, HYDERABAD