

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

BEFORE

**SHRI MANJUNATHA. G.
Hon’ble ACCOUNTANT MEMBER**

ITA No.306/Hyd/2024		
Assessment Year: 2017-18		
Smt. Swarna Latha, 5-1-269, 1 st Floor, Pramod Sarojinidevi Libra, R.P. Road, Secunderabad - 500003 Telangana. PAN : ARWPM0164C	Vs.	The Income Tax Officer, Ward 10(3), Hyderabad.
(Appellant / Assessee)		(Respondent)
Assessee by:	Shri Kumar Pal Tated, C.A.	
Revenue by:	Ms. Vishnu Priya, Sr.AR.	
Date of hearing:	23.04.2024	
Date of pronouncement:	23.04.2024	

ORDER

PER MANJUNATHA G. A.M:

This appeal filed by the assessee is directed against the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi passed on 28.12.2023 for the assessment year 2017-18.

2. At the outset, I find that there is a delay of 32 days in filing the appeal before the Tribunal for which necessary petition for condonation of delay along with the affidavit explaining the reasons for the delay in filing the appeal has been filed.

3. The learned counsel for the assessee referring to the petition filed by the assessee for condonation of delay has submitted that the appeal could not be filed as relevant papers were misplaced by the Accountant and the same has not been brought to the notice of the assessee. The assessee immediately after noticed this fact, had visited the department and collected necessary appellate order passed by the Ld.CIT(A), which caused delay of 32 days in filing of the appeal. The delay in filing the appeal is neither intentional nor for want of any undue benefit. Therefore, in the interests of justice, the delay caused in filing the appeal may be condoned.

4. The Ld. D.R. Ms. Vishnu Priya, on the other hand, opposing the petition filed by the assessee for condoning the delay caused in filing the appeal has submitted that the reasons given by the appellant does not come under 'reasonable cause' as provided under the Act and thus, the appeal filed by the appellant may be dismissed as unadmitted.

5. I have heard both the parties and considered the relevant contents of the petition filed by the assessee for condoning the delay in filing the appeal and after considering the recorded reasons by the appellant, the delay in filing of 32 days is hereby condoned and the appeal of the assessee is admitted for hearing.

6. The brief facts of the case are that the assessee is an individual and salaried employee did not file her return of income for A.Y. 2017-18 as taxable income for the impugned assessment year does not exceed maximum amount chargeable to tax. As per the details available with the Assessing Officer, it was observed that the assessee has deposited cash of Rs.10,59,000/- in her bank account maintained with ICICI Bank during the demonetization period. Since, the assessee has not filed her return of income, a notice u/s 142(1) of the Act dt.09.03.2018 was issued requiring the assessee to file return of income. Since there was no response from the assessee, the Assessing Officer has passed best judgment assessment order u/s 144 r.w.s. 143(3) of the Act and made addition of Rs.10,59,000/- towards cash deposits made into her bank account during the demonetization period as unexplained money taxable u/s 69A of the Income Tax Act, 1961.

7. The assessee carried the matter in appeal before the first appellate authority. Before the Ld.CIT(A), the assessee neither appeared nor filed any details. Therefore, the Ld.CIT(A) passed exparte appellate order and dismissed the appeal filed by the assessee by invoking the provisions of Section 249(4)(b) of the Income Tax Act for not paying advance tax in respect of income chargeable to tax.

8. Aggrieved with the order of Ld.CIT(A), the assessee is in appeal before me.

9. Learned counsel for the assessee submitted that the Ld.CIT(A) erred in dismissing the appeal filed by the assessee by invoking inapplicable provisions of Section 249(4)(b) of the Act even though the assessee is not required to pay the advance tax when the taxable income for any assessment year does not exceed maximum amount chargeable to tax. The learned counsel for the appellant further submitted that although the appellant has not filed the relevant details before the Assessing Officer, but facts remains the source for the cash deposited into her bank account is out of cash withdrawal from her husband B. Raghuveer's account maintained with Axis Bank on 08.11.2016 amounting to Rs.10,20,000/-. Further, the reason of withdrawal of cash from her husband's bank account is for the purpose of making payment to EIPL Projects for purchase of property in the name of the appellant. Since all this evidence was not available with the

Assessing Officer, the matter may be set aside to the file of Assessing Officer to give an opportunity of hearing to the appellant to explain the sources of the cash deposited into her bank account during the demonetization period.

10. The Ld. D.R. on the other hand, supporting the order of Assessing Officer and Ld.CIT(A) submitted that the appellant is non-cooperative before the authorities below which is evident from the exparte assessment order and exparte appellate order passed by both the authorities, respectively. Further, although the appellant claims to have withdrawn cash from her husband's bank account but no proper evidence has been lead to prove the source of cash deposits into her bank account. The Assessing Officer after considering the relevant facts has rightly made addition towards unexplained cash credit u/s 69A of the Act and hence, the assessment order should be upheld.

11. I have heard both the parties, perused the materials on record and gone through orders of the authorities below. The appellant claims to have withdrawn sum of Rs.12,20,000/- on 08.11.2016 from her husband's bank account maintained with Axis Bank account. The assessee has also explained the reasons for withdrawal of cash from her husband's bank account and as per explanation furnished by the assessee, she supposes to make

payment to a builder for purchase of flat and for this reason, she has withdrawn cash from her husband's bank account on 08.11.2016, on the same day of announcement of demonetization and on the same day i.e., 08.11.2016, she has deposited a sum of Rs.10,20,000/- into her bank account. She further claimed that she had issued a cheque for Rs.10,10,000/- in favour of EIPL Projects for purchase of property. The assessee has furnished relevant bank statements of her husband, herself and argued that all these evidences were not before the Assessing Officer and to produce the necessary evidence and also to explain the source of cash deposit during the demonetization period, the matter may be set aside to the file of Assessing Officer. I find that no evidence was filed by the assessee, including her bank account clearly shows nexus between cash withdrawn from one bank account and the cash deposited into another bank account on the same day, that too on the date of demonetization. Since, the assessee is able to file certain evidence to prove the availability of source of cash deposited during the demonetization period, I am of the considered opinion that the matter needs further examination from the Assessing Officer to ascertain the nature and source of cash deposit. Therefore, I set aside the order of Ld.CIT(A) and restore the issue back to the file of Assessing Officer and direct the Assessing Officer to reexamine the claim of assessee in light of the various evidences filed by the assessee to explain the source of cash deposit.

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

Order pronounced in the Open Court on 23rd April, 2024.

Sd/-
(MANJUNATHA. G)
ACCOUNTANT MEMBER

Hyderabad, dated 23rd April, 2024.

TYNN/sps

Copy to:

S.No	Addresses
1	Swarna Latha, 5-1-269, 1 st Floor, Pramod Sarojinidevi Libra, R.P. Road, Secunderabad – 500003, Telangana.
2	The Income Tax Officer, Ward 10(3), Hyderabad.
3	Prl.CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order