

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

BEFORE SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 188/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2017-18)

Ravinder Chinthapula, Vs. Income Tax Officer,
Karimnagar Ward-2,
[PAN No. ADGPC8597F] Karimnagar

अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri T. Chaitanya Kumar, AR
राजस्व द्वारा/Revenue by: Shri Ashish Kumar Shukla, DR

सुनवाई की तारीख/Date of hearing: 02/05/2024
घोषणा की तारीख/Pronouncement on: 07/05/2024

आदेश / ORDER

Aggrieved by the order dated 26/12/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Ravinder Chinthapula ("the assessee") for the assessment year 2017-18, assessee preferred this appeal with a delay of one day. Though the learned DR vehemently opposed the condonation of delay of one day in filing the appeal, I am of the considered opinion that delay of one day shall not come in considering the merits of a case and delay shall not defeat the prospects of a meritorious case, if any. I, therefore, proceed to hear the matter on merits.

2. Brief facts of the case are that assessee is an individual and filed the return of income for the assessment year 2017-18 on 17/02/2018, declaring an income of about Rs. 4 lakhs. During the course of assessment proceedings, learned Assessing Officer found that the assessee deposited a cash of about Rs. 24 lakhs during the demonetization period. The

assessee explained that out of that amount, a sum of Rs. 11 lakhs credited to the bank was the loan account. In respect of the other deposits, the assessee explained that such sums to the tune of Rs. 8.5 lakhs represent the previous withdrawals, deposited back due to the demonetization.

3. The learned Assessing Officer accepted the explanation of the assessee in respect of the amount, which was said to be previously withdrawn. The learned Assessing Officer was of the opinion that since the assessee withdrew a sum of Rs. 40,000/- on 08/11/2016, it means he exhausted all the previous withdrawals and, therefore, no amount could have been available with the assessee as on 08/11/2016 to deposit it back. On this premise, learned Assessing Officer made an addition of Rs. 8.1 lakhs.

4. Learned CIT(A) confirmed the additions stating that the assessee was not aggrieved by the additions and that is the reason why he did not enter appearance in the first appellate proceedings. Except for non-compliance with the notices, learned CIT(A) did not find any reasons to dismiss the appeal of assessee.

5. I have gone through the record in the light of the submissions made on either side. On a careful perusal of the orders of the Revenue authorities, it is clear that though the learned Assessing Officer found a sum of about Rs. 24 lakhs as deposited in the account of the assessee, he sought explanation of the assessee only in respect of Rs. 11 lakhs and Rs. 8.25 lakhs. Learned Assessing Officer satisfied with the explanation of the assessee that Rs. 11 lakhs was loan amount deposited in the assessee's

account and dropped that amount. Learned Assessing Officer, however, did not agree with the submission of the assessee that Rs. 8.25 lakhs deposited in the bank was the amount which was withdrawn on earlier occasion, stating that the fact of withdrawing a sum of Rs. 40,000/- on 08/11/2016 shows that by that time, the assessee spent all the amounts that were withdrawn earlier and, therefore, there cannot be any cash with the assessee to be deposited during demonetization period.

6. I agree with the learned AR that there is no presumption that the assessee shall withdraw any amount from bank after spending the earlier withdrawn amount and there may be occasions where the earlier withdrawn amounts falling short of the desired amount to meet a particular expenditure which the assessee could deposit because of demonetization. It would be just and proper to consider the withdrawals within a period of six months immediately before the date of deposit, and in that case, a sum of Rs. 6 lakhs would be covered by those six months. To that extent, assessee is entitled to relief and the learned Assessing Officer is directed to delete the addition to the extent of Rs. 6 lakhs. Grounds are answered accordingly.

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

Order pronounced in the open court on this the 7th day of May, 2024.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad, Dated: 07/05/2024
TNMM

Copy forwarded to:

1. Ravinder Chinthapula, F.No. 101, E Block, Aditya Empress Towers,
Shaikpet, Tolichowki, Hyderabad.
2. Income Tax Officer, Ward-2, Karimnagar.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE.

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ASSISTANT REGISTRAR
ITAT, HYDERABAD