

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

**BEFORE**  
**SHRI LALIET KUMAR, JUDICIAL MEMBER**  
**&**  
**SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER**

आ.अपी.सं/ITA No. 282/Hyd/2024  
(निर्धारण वर्ष/Assessment Year: 2017-18)

Shri Vijaya Narasimha Reddy Marella, Hyderabad [PAN No. BAJPM0589A]	Vs.	Income Tax Officer, Ward-8(3), Hyderabad
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती द्वारा/Assessee by: Shri Pawan Kumar Chakrapani, AR  
राजस्व द्वारा/Revenue by: Shri Rahul Singhania, DR

सुनवाई की तारीख/Date of hearing: 16/05/2024  
घोषणा की तारीख/Pronouncement on: 21/05/2024

**आदेश / ORDER**

**PER MADHUSUDAN SAWDIA, A.M:**

The captioned appeal has been filed at the instance of Shri Vijaya Narasimha Reddy Marella ('the assessee'), against the order dated 30/01/2024 passed by the Learned Commissioner of Income Tax (Appeals)-National Faceless

Appeal Centre (NFAC), Delhi (“Ld. CIT(A)”) relating to the assessment year (AY) 2017-18.

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

*“1. The impugned order of the learned Authorities below in so far as it is against the Appellant is opposed to law, weight of evidence, natural justice, probabilities, facts and circumstances of the Appellant's case.*

*2. Whether the learned Commissioner of Income-tax (Appeals), is justified is not providing an opportunity to the Appellant and passing the order of appeal against the principles of natural justice, under the facts and circumstances of the case.*

*3. The Appellant denies himself liable to be assessed on a total income of Rs. 3,01,81,318/-, as against the returned income of Rs. 6,20,690/-, under the facts and circumstances of the case.*

*4. Whether the learned Authorities below are justified in making an addition of Rs. 3,01,81,318/-, as unexplained money under section 69A of the Act, under the facts and circumstances of the case.*

*5. Whether the learned Authorities below are justified in making addition of Rs. 3,01,81,318/-, under section 69A of the Act, even when the Appellant has stated that the amount of Rs. 55,58,965/- is gold loan which is credited in the bank account of the Appellant, under the facts and circumstances of the case.*

*6. Whether the learned Authorities below are justified in making addition of Rs. 3,01,81,318/, under section 69A of the Act, even when the Appellant has stated that Rs.1,43,86,100/- , are loans from relatives which are credited in the bank account of the Appellant, under the facts and circumstances of the case.*

*7. Whether the learned Authorities below are justified in making addition of Rs. 3,01,81,318/-, under section 69A of the Act, even when the Appellant has stated that Rs. 84,69,764/-, is turnover achieved during the impugned assessment year 2017-18, under the facts and circumstances of the case.*

*8. Whether the learned Authorities below are justified in making addition of Rs. 3,01,81,318/-, under section 69A of the*

*Act, even when the Appellant has stated that the amount of Rs. 16,97,000/-, deposited in cash is out of sale proceeds, under the facts and circumstances of the case.*

*9. The Appellant denies himself liable to be charged to interest under section 234A, 234B & 234C of the Income-Tax Act, 1961, under the facts and circumstances of the case.*

*10. The Appellant craves leave to add, alter, delete or substitute any of the grounds urged above.*

*11. In the view of the above and other grounds that may be urged at the time of the hearing of the appeal, the Appellant prays that the appeal may be allowed in the interest of justice and equity.*

3. The assessee also raised the following additional grounds before us:

*1. Whether the learned Assessing Officer is correct in completing the assessment and passing the order of assessment under section 144 of the Act, without issuing notice under section 143[2] of the Act, under the facts and circumstances of the case.*

*2. Whether the learned Assessing Officer is justified in completing the assessment without issuing mandatory statutory notice under section 143[2] of the Act, under the facts and circumstances of the case.*

*3. The Appellant craves leave to add, alter, amend, substitute, change or delete any of the grounds of appeal.*

*4. For the above and other grounds that may be urged at the time of hearing of the appeal, the Appellant prays that the appeal may be allowed and justice rendered.”*

4. Learned AR submitted that additional grounds so filed are admissible in view of judgment rendered by the Hon'ble Supreme Court in the case of National Thermal Power Co. Ltd. v. CIT (1998) 229 ITR 383 (SC). The prayer for admission of additional grounds noted above, which are not in

memorandum of appeal, are being admitted for adjudication in terms of Rule 11 of the Income Tax (Appellate Tribunal) Rules, 1963 owing to the fact that objections raised in additional grounds are legal in nature for which relevant facts are stated to be emanating from the existing records.

5. Brief facts of the case are that the assessee is an individual and did not file the return of income for the AY 2017-18. During verification under 'Operation Clean Money', the department had got an information that the assessee deposited substantial cash in his bank accounts during the demonetization period i.e. from 09/11/2016 to 30/12/2016. Consequently the learned Assessing Officer ("Ld. AO") issued notice u/s. 142(1) of the Income Tax Act, 1961 ("the Act") to the assessee, requiring him to file the return of income. However the assessee failed to furnish his return of income and also did not respond to the various statutory notices issued from time to time. Finally the Ld. AO by invoking the provisions u/s. 144 of the Act, finalised the assessment at total Income of Rs. 3,03,81,318/- by order dated 05/12/2019.

6. Feeling aggrieved by the order of the Ld. AO, assessee filed appeal before the Ld.CIT(A). However the Ld.CIT(A) dismissed the appeal of the assessee, making the following observation at page No. 11 of his order :

*"9. Decision on Grounds of Appeal: During the appellate proceedings, Statement of Facts, Grounds of appeal, Assessment Order and appellant's submission was carefully scrutinized by the under signed.*

*Ground 1: Appellant has not submitted source of cash deposit of Rs 16,97,000/- during the demonetization period. Appellant has also stated that he has not maintained any books of accounts and has not submitted any confirmation for obtaining secured and unsecured loans. Hence, it is opined that the AO has rightly applied section U/s 69A of the Income Tax Act, 1961 and added the cash deposited to the tune of Rs. 16,97,000/- during demonetization period. Hence, the addition to the extent of Rs. 16,97,000/- is justified and doesn't warrant any interference.*

*The appellant has not maintained any books of accounts and has not filed any submissions except bank statement. It is observed that total credits including cash deposits in to the bank accounts of the appellant was Rs. 3,01,81,318/-. Appellant failed to furnish any documentary proofs in support of his claim that he had availed agricultural loan in 2015 and any proof that he had indeed doing agriculture. No land records, details of crops cultivated, sales to agricultural market, etc, were never produced even during appeal proceedings too. Hence, the entire amount of Rs. 3,01,81,318/- as added and brought to taxation by AO is sustained.*

*In view of the above, the Ground is noted as dismissed.*

*In the end, the appeal is noted as Dismissed.”*

7. Feeling aggrieved with the order of Ld. CIT(A), the assessee is now in appeal before us, contending that the Revenue authorities erred in declining sufficient opportunity to the assessee in proving the cash deposited in the bank. It is further contended that both the revenue authorities have passed the order without providing proper opportunity. The learned AR further submitted that the assessee does not stand to gain by allowing the appeal to be disposed of without any documentary evidence being produced and it is only due to the reasons beyond the control of the assessee, the assessee could not produce the documents. By consolidating all the grounds, he further submitted that given an opportunity, the assessee is now ready to produce all such

details and conduct the proceedings diligently and get the matter disposed of on merits.

8. Per contra, learned DR placed heavy reliance on the orders of the authorities below, and submitted that sufficient opportunity has already been given by the authorities, but the assessee failed to avail the same. He opposed the grant of further opportunity to the assessee.

9. We have heard the rival submissions and also gone through the record in the light of the submissions made on either side. It could be seen from the orders of the authorities that the assessee failed to produce the evidences in support of the deposit of cash in the bank, which resulted in passing the orders without consideration thereof. It is a fact that the assessee does not stand to gain by not producing such documents. Be that as it may, now that the assessee is ready to produce all such documentary evidence in support of his contentions and get the matter disposed of on merits. Hence considering the principle of natural justice and to decide the issue on merits, we are of the view that fresh opportunity should be given to the assessee and, accordingly, we set aside the impugned order and restore the issue to the file of the Ld. AO for passing a fresh order on merits after affording the opportunity of hearing to the assessee subject to payment of costs of Rs.3,000/- (Rupees Three Thousand only) in favour of Prime Minister National Relief Fund which shall be payable

within one month from the date of receipt of this order.  
Grounds of appeal are answered accordingly.

10. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 21<sup>st</sup> day of May, 2024.

Sd/-  
**(LALIET KUMAR)**  
**JUDICIAL MEMBER**

Sd/-  
**(MADHUSUDAN SAWDIA)**  
**ACCOUNTANT MEMBER**

Hyderabad,  
Dated: 21/05/2024

*TNMM*

Copy forwarded to:

1. Shri Vijaya Narasimha Reddy Marella, 1-182/CBR/104,  
CBR Model Estates, Madava Nagar, Miyapur, Hyderabad.
2. The Income Tax Officer, Ward-8(3), Hyderabad.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ASSISTANT REGISTRAR  
ITAT, HYDERABAD