

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad ' SMC' Bench, Hyderabad**

**BEFORE**  
**Shri Manjunatha, G. Accountant Member**

आ.अपी.सं / **ITA No.412/Hyd/2024**  
(निर्धारण वर्ष / Assessment Year: 2017-18)

|   |     |   |
|---|-----|---|
| Shri Anil Yadav<br>Hyderabad<br>PAN:AAAPY3556D<br>(Appellant) | Vs. | Income Tax Officer<br>Ward 13(2)<br>Hyderabad<br>(Respondent) |
| निर्धारिती द्वारा / Assessee by: Shri Sashank Dundu, Advocate |     |   |
| राजस्व द्वारा / Revenue by: Shri Srikanth Reddy Y, DR         |     |   |
| सुनवाई की तारीख / Date of hearing: 21/05/2024                 |     |   |
| घोषणा की तारीख / Pronouncement: 21/05/2024                    |     |   |

**आदेश/ORDER**

This appeal filed by the assessee is directed against the order dated 21.02.2024 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2017-18.

2. Facts of the case, in brief, are that the assessee is an individual filed his return of income declaring total income of Rs.3,09,860/-. The case was selected for scrutiny to verify large cash deposits of Rs.20,75,000/- during the demonetization period into Indian Overseas Bank Account No.187901000005432. The Assessing Officer called upon the assessee to explain the source

for cash deposits. In response, the assessee submitted that he has received a sum of Rs.25,17,913/-towards the compensation from Motor Accidental Tribunal and the same was periodically withdrawn in 2009 and partly kept in Fixed Deposits. The amount kept in FD was withdrawn in the year 2012. The assessee is keeping cash in hand for various medical treatments of himself and his wife who is suffering from cancer. Further, when the demonetization was announced in November, 2016, the assessee made deposits into the Bank Account. However, the source for cash deposits is out of his known source of income being the compensation received in 2009. The Assessing Officer however, was not convinced with the explanation furnished by the assessee. According to the Assessing Officer, the explanation given by the assessee that he had withdrawn cash from Bank 4 to 7 years back and the same was the source for cash deposits during the demonetization period cannot be accepted, because no prudent person would keep such a huge amount of cash with him. However, considering the fact that the assessee is a handicapped person, allowed relief of Rs.2,50,000/- and made additions for balance cash deposit of Rs.18,25,000/- u/s 69A of the I.T. Act, 1961. The assessee carried the matter in appeal before the first appellate authority, but could not succeed. The learned CIT (A) LEARNED CIT (A) NFAC, for the reasons stated in their appellate order dated 21.02.2024 rejected the explanation furnished by the assessee and sustained the addition made by the Assessing Officer towards cash deposits.

3. Aggrieved with such order of the learned CIT (A), the assessee is in appeal before the Tribunal.

4. The learned Counsel for the assessee Shri Sashank Dundu, Advocate, submitted that the Assessing Officer and the learned CIT (A) NFAC both were erred in confirming the addition towards cash deposits even though they have not disputed the source for cash deposits only on the ground that no prudent person would keep such a huge cash for a period of 4 to 5 years with him. But, the facts remains that the assessee being a handicapped person and also his wife was suffering from various ailments including cancer has kept the cash with him for urgent requirement of cash for medical treatment. Therefore, when the assessee has explained the source for cash deposits during the period out of known source of income, the Assessing Officer ought not to have made the addition u/s 69A of the I.T. Act. The learned CIT (A) NFAC without appreciating the facts has simply sustained the addition made by the Assessing Officer by following the theory of human probability test ignoring the fact that the assessee is a disabled person and said theory is not applicable to the assessee.

5. The learned DR, Shri Y. Srikanth Reddy, on the other hand, supporting the orders of the first appellate authority submitted that it is impossible for a person to keep such a huge amount of cash in hand with him for a period of 4 to 5 years. Although the assessee claims to have kept the cash with him for

medical emergencies, but no evidence has been filed to prove the said claim. The Assessing Officer and learned CIT (A) NFAC after considering the relevant facts has rightly made addition towards cash deposits u/s 69A of the Act and their orders should be upheld.

6. I have heard both parties, perused the material available on record and gone through the orders of the authorities below. The Assessing Officer and the learned CIT (A) NFAC never disputed the fact that the assessee is a disabled person lost his one hand in accident occurred in the year 1997. The Assessing Officer had also not disputed the fact that the assessee has received total compensation of Rs.25,17,913/- in the year 2009 by way of two cheques from Oriental Insurance Co. Ltd, New Delhi. The assessee had also placed necessary evidence including the relevant bank statement right from financial year 2009-10 to prove that he had withdrawn cash from bank out of compensation received from the Oriental Insurance Co. Ltd. The Assessing Officer made addition only on the ground that the argument of the assessee is against the theory of hum probability and no prudent person would keep such huge amount of cash for a period of 4 to 5 years. We find that the theory of hum probability cannot be universally accepted to all assessees. It depend upon the facts of each case and explanation offered by the assessee. Going by the facts of the present case and the explanation offered by the assessee, it seems that the explanation of the assessee with

regard to the source of cash deposit during the demonetization period appears to be bonafide and genuine. The evidences furnished by the assessee including the relevant bank statement clearly shows receipt of compensation from the Oriental Insurance Co. Ltd and withdrawal of cash from bank from time to time in the year 2009 and up to the financial year 2012. When the assessee is able to furnish the relevant evidences to prove the availability of source for cash deposits made during the demonetization period, in my considered opinion, the Assessing Officer ought to have accepted the explanation of the assessee unless the Assessing Officer makes out a case that the assessee has utilized the available cash out of compensation received from the Insurance Company for acquiring any asset or spent the said money for some other purposes. In absence of any finding as to disproving the claim of the assessee, in my considered opinion, the Assessing Officer and the learned CIT (A) NFAC ought to have accepted the explanation of the assessee with regard to the source for cash deposits. Therefore, I am of the considered opinion that the Assessing Officer is erred in making addition towards cash deposits during demonetization period u/s 69A of the Act and the learned CIT (A) NFAC without appreciating the relevant facts has simply sustained addition made by the Assessing Officer. Therefore, I set aside the order of the learned CIT (A) NFAC and direct the Assessing Officer to delete the addition made towards cash deposits of Rs.18,75,000/- u/s 69A of the I.T. Act, 1961.

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

Order pronounced in the Open Court on 21<sup>st</sup> May, 2024.

Sd/-

**(MANJUNATHA, G.)  
ACCOUNTANT MEMBER**

Hyderabad, dated 21<sup>st</sup> May, 2024

***Vinodan/sps***

Copy to:

| S.No | Addresses   |
|------|---|
| 1    | Shri Anil Yadav, A-1, Type-3, Staff Quarters, Gachibowli, Maulana Azad National Urdu University, Hyderabad 500032 |
| 2    | Income Tax Officer Ward 13(2) Aayakar Bhavan, Opp: LB Stadium, Basheerbagh, Hyderabad 500004                      |
| 3    | Pr. CIT - Hyderabad   |
| 4    | DR, ITAT Hyderabad Benches  |
| 5    | Guard File  |

*By Order*