

आयकरअपीलीयअधिकरण, विशाखापटणमपीठ, विशाखापटणम

IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM

श्रीदुव्वूरुआरएलरेड्डी, न्यायिकसदस्यएवंश्रीएसबालाकृष्णन, लेखासदस्यकेसमक्ष

BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER &
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

आयकरअपीलसं./ I.T.A. No.06/Viz/2024

(निर्धारणवर्ष/ Assessment Year : 2017-18)

Nymisha Kundum,
Narsipatnam.
PAN: AYZPD 6914 B
(अपीलार्थी/ Appellant)

Vs. Income Tax Officer,
Ward-1(1),
Rajahmundry.
(प्रत्यर्थी/ Respondent)

अपीलार्थीकीओरसे/ Assessee by

: Sri GVN Hari, AR

प्रत्यर्थीकीओरसे/ Revenue by

: Dr. Aparna Villuri, Sr. AR

सुनवाईकीतारीख/ Date of Hearing

: 09/05/2024

घोषणाकीतारीख/Date of
Pronouncement

: 28/05/2024

ORDER

PER S. BALAKRISHNAN, Accountant Member :

This appeal filed by the assessee is against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ["Ld. CIT(A)-NFAC"] in DIN & Order No. ITBA/NFAC/S/250/2023-24/1056811946(1), dated 05/10/2023

arising out of the order passed U/s. 143(3) of the Income Tax Act, 1961 [“the Act”] for the AY 2017-18.

2. At the outset, it is noticed from the appeal record that there is a delay of 30 days in filing the appeal before the Tribunal. Explaining the reasons for belated filing of the appeal, the assessee filed an affidavit along with a petition seeking condonation of delay and the contents of the said affidavit are as under:

- “1
2. *The proceedings before the Ld. CIT(A) were shown as closed in Web Portal from 5/10/2023 but the order was not available for download. Therefore, the appellant raised a grievance on 1/11/2023 as under:*

“Appeal before the Commissioner (Appeals) for AY 2017-18 are shown as closed but closure order is not available for download since 5/10/2023.

It is only on 7/11/2023 that the appellant was informed that the appeal was dismissed by the CIT(A) and when the appellant checked the website again on 7/11/2023, the order was available for download.

3. *Thus, the effective date of receipt of the order is only 7/11/2023 and the delay of 30 days was due to this fact that the appellant could not download the order from 5/10/2023 to 7/11/2023.”*

3. On perusal of the contents of the affidavit filed by the assessee, we find that the assessee was prevented by a reasonable and sufficient cause in filing the appeal beyond the prescribed limit with a delay of 30 days. Therefore, we hereby

condone the delay of 30 days in filing the appeal before the Tribunal and proceed to adjudicate the appeal on merits in the following paragraphs.

4. Briefly stated the facts of the case are that the assessee, an individual, filed her return of income on 5/8/2017 admitting a total income of Rs.1,92,130/-. Thereafter, the case was selected for scrutiny under “limited category” through CASS. Subsequently, notice U/s. 143(2) was issued on 10/08/2018 through ITBA. Further, a notice U/s. 142(1) of the Act was also issued along with a questionnaire and called for certain information. It was observed by the Ld. AO that the assessee made cash deposits of Rs. 15,00,000/- during demonetization period. In this regard, a show cause notice was issued to the assessee on 4/12/2019. In response, the assessee submitted that the said amount was withdrawn from Jampeta Cooperative Bank on different dates to invest in a land which did not work out. However, the Ld. AO in the absence of any documentary evidence to explain the sources for the cash deposits, treated the entire cash deposits of Rs. 15 lakhs made during the demonetization period as unexplained and brought to tax U/s. 69A of the Act under the head “other sources”. Accordingly, the Ld. AO made

addition U/s. 115BBE of the Act and determined the assessed income at Rs. 16,92,130/-. Aggrieved by the order of the Ld.AO, the assessee preferred an appeal before the Ld.CIT(A)-NFAC. On appeal, the Ld. CIT(A)-NFAC passed ex-parte order and dismissed the appeal of the assessee. Aggrieved by the order of the Ld. CIT(A)-NFAC, the assessee is in appeal before us by raising the following grounds of appeal:

- “1. *The order of Ld. CIT(A) is contrary to the facts and also the law applicable to the facts of the case.*
2. *The Ld. CIT(A) is not justified in deciding the appeal ex-parte without giving sufficient opportunity to the appellant.*
3. *Without prejudice to the above, the Ld. CIT(A) is not justified in sustaining the addition of Rs. 15,00,000/- made by the AO U/s. 69A of the Act towards unexplained cash deposits in the bank account of the appellant.*
4. *Any other ground may be urged at the time of hearing.”*

5. **Ground No.2** is **not pressed** by the Ld. AR and therefore the same is dismissed as not pressed.

6. **Grounds No. 1 and 4 are general** in nature and therefore they need no separate adjudication.

7. With respect to **Ground No.3**, at the outset, the Ld. AR submitted that the assessee has sold the property and has deposited the cash in Jampeta Cooperative Bank on 20/08/2015.

Subsequently, the cash was withdrawn and the assessee has made various Fixed Deposits from the above cash withdrawals. The Ld. AR further submitted that these FDs were closed between 15/03/2016 and 29/08/2016 and the maturity value of Rs. 16,70,327/- was credited her savings bank account. It was further submitted that the assessee withdrawn the entire cash of Rs. 16,71,000/- on 29/08/2016 from the savings account. The Ld. AR further submitted that subsequent to the announcement of demonetization, these withdrawals were deposited into the bank account of the assessee on 14/11/2016 aggregating to Rs. 15,00,000/- in the ICICI bank account of the assessee. The Ld. AR therefore pleaded that since the sources of the cash deposits has been demonstrated, the additions made by the Ld. AO be deleted.

Per contra, the Ld. DR relied on the orders of the Ld. Revenue Authorities.

8. We have heard both the sides and perused the material available on record as well as the orders of the Ld. Revenue Authorities. It is an admitted fact that the assessee has sold a property and realized the amount in cash and made various Fixed Deposits. Further, it is also not disputed that on maturity of the

fixed deposits, the cash was withdrawn by the assessee on 29/08/2016. It is also noticed that the same amounts are deposited in a single instance into the ICICI Bank by the assessee on 14/11/2016 for Rs. 15 lakhs. The above facts have been clearly demonstrated by the Ld. AR through the submission of bank statements and a letter from Jampeta Cooperative Bank including the copies of the Fixed Deposit accounts. We therefore find that since the sources of the cash deposits have been clearly explained by the Ld.AR, the addition made by the Ld. Revenue Authorities deserves to be deleted. It is ordered accordingly and the **Ground No.3 raised by the assessee is allowed.**

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

Pronounced in the open Court on 28th May, 2024.

Sd/-

(दुव्वूरु आर. एल रेड्डी)

(DUVVURU RL REDDY)

न्यायिकसदस्य/JUDICIAL MEMBER

Sd/-

(एस बालाकृष्णन)

(S.BALAKRISHNAN)

लेखासदस्य/ACCOUNTANT MEMBER

Dated : 28.05.2024

OKK - SPS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee–NymishaKundum, D.No. 1-180, Behind Heritage Fresh, Santhi Nagar, Balighattam, Narsipatnam, Andhra Pradesh – 531116.
2. राजस्व/The Revenue – Income Tax Officer, Ward-1(1), O/o. ITO, Aayakar Bhavan, Veerabhadrapuram, Rajahmundry, Andhra Pradesh – 533105.
3. The Principal Commissioner of Income Tax,
4. आयकरआयुक्त (अपील)/ The Commissioner of Income Tax
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम/ DR,ITAT, Visakhapatnam
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam