

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. 350/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2017-18)

Karuna Kumar Konduru, Gadwal [PAN No. AMQPK1964M]	Vs. Income Tax Officer, Ward-1, Mahabubnagar
अपीलार्थी / Appellant	प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri Mohd. Afzal, AR
राजस्व द्वारा/Revenue by: Shri R. Kumaran, DR

सुनवाई की तारीख/Date of hearing: 03/06/2024
घोषणा की तारीख/Pronouncement on: 06/06/2024

आदेश / ORDER

Aggrieved by the order dated 12/02/2024 passed by the learned Addl/JCIT(A)-5, Mumbai ("Ld. CIT(A)"), in the case of Karuna Kumar Konduru ("the assessee") for the assessment year 2017-18, assessee preferred this appeal.

2. Brief facts of the case are that the learned Assessing Officer, not believing the submission of the assessee that such deposits are out of retirement benefits received by him, made an addition of Rs. 12 lakhs which represents the deposits on 15/11/2016 in the account of the assessee during demonetization period. Learned CIT(A) also was of the same opinion and not believing such versions of the assessee, confirmed the addition by way of impugned order.

3. Submission of the learned AR before me is that the assessee withdrew a sum of Rs. 37,98,000/- from SBI and Rs. 10,89,500/- from SBH

during the financial year 2014-15 apart from Rs. 4 lakhs and Rs. 2.5 lakhs on 03/12/2015 and 11/01/2016, but the authorities did not believe such withdrawals to be the source of deposits. Learned AR submitted that the authorities should have believed the assessee and should have treated the retirement benefit of the assessee as the source of the deposits.

4. Per contra, learned DR submitted that the learned CIT(A) in his order observed that Rs. 57,87,500/-, a sum of Rs. 42.98 lakhs was withdrawn in the financial year 2014-15 and the assessee withdrew Rs. 4 lakhs and Rs. 2.5 lakhs on 03/12/2015 and 11/01/2016 respectively, which is insufficient to explain the deposit of Rs. 12 lakhs on 15/11/2016.

5. I have gone through the record in the light of the submissions made on either side. It could be seen from the impugned order that the assessee submitted before the learned CIT(A) that during the financial year 2014-15, he withdrew a sum of Rs. 37.98 lakhs from SBI and a sum of Rs. 10,89,500/- from SBH apart from Rs. 5 lakhs from APGVB on 28/01/2014 and such amount constitutes the source for the deposit of Rs. 12 lakhs during demonetization period. As a matter of fact, learned CIT(A) found that Rs. 42.98 lakhs was withdrawn during the financial year 2014-15 apart from a further withdrawal of Rs. 4 lakhs and Rs. 2.5 lakhs on 03/12/2015 and 11/01/2016. Learned CIT(A), however, refused to believe that this amount would constitute a proper source to explain the deposit of Rs. 12 lakhs on 15/11/2016.

6. The learned AR placed reliance on the decision of the Ahmedabad Bench of the Tribunal in the case of Kavtaben Chintanbhai vs. ITO in ITA No. 306/Ahd/2021, dated 03/08/2022 for the assessment year 2017-18, wherein the Tribunal accepted that the withdrawals on 02/01/2014 explain the source of deposit on 11/11/2016, while placing reliance on the decision of the Hon'ble Gujarat High Court in the case of CIT vs. Manoj Indravadan Chokshi (2014) 50 taxmann.com 419. He also placed reliance

on the decision of the Co-ordinate Bench of the Tribunal in the case of ITO vs. Shri M. Prabhakar, in ITA No. 1727/Hyd/2014, dated 11/11/2016 for the assessment year 2010-11, wherein it was held that the AO cannot complete the assessment purely on guess and without any reference to evidence or any material at all, and that without any proof that the assessee has in fact utilized or applied the cash withdrawn two years back, except making a remark that there is no possibility of keeping such amount by the assessee being a NRI.

7. Having regard to the set of facts and circumstances and in view of the findings of the learned CIT(A) that there was source for the assessee to hold some cash in his hand, I am of the considered opinion that the assessee was compelled to deposit the same during the demonetization period and respectfully following the view taken by the Hon'ble High Court of Gujarat and Co-ordinate Benches of the Tribunal, I deem it is a fit case to believe the assessee and direct the learned Assessing Officer to delete the addition made. Grounds are accordingly allowed.

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

Order pronounced in the open court on this the 6th day of June, 2024.

Sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 06/06/2024

TNMM

Copy forwarded to:

1. Karuna Kumar Konduru, H.No. 1-4-33/A2/1, Radha Krishna Colony, Gadwal.
2. Income Tax Officer, Ward-1, Mahabubnagar.
3. The Pr.CIT,
4. DR, ITAT, Hyderabad.
5. GUARD FILE.

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ASSISTANT REGISTRAR
ITAT, HYDERABAD