

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

Shri Skanda Kumar Kasturi, Kurnool PAN:ACTPK0562A (Appellant)	Vs.	Income Tax Officer Ward 1 Kurnool (Respondent)
निर्धारिती द्वारा / Assessee by: Shri K.A. Sai Prasad, CA		
राजस्व द्वारा / Revenue by: Smt. P. Sumitha, DR		
सुनवाई की तारीख / Date of hearing: 26/06/2024		
घोषणा की तारीख / Pronouncement: 26/06/2024		

आदेश/ORDER

This appeal filed by the assessee is directed against the order dated 02/03/2024 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 and filed his return of income for the A.Y 2017-18 on 30.11.2017 declaring total income of Rs.14,74,280/-. The case was selected for scrutiny under CASS to verify the sources for the cash deposits during the demonetization period in the State Bank of Mysore Account operated by the assessee. During the course of

assessment proceedings, the Assessing Officer noticed that the assessee has made cash deposits into the bank account and therefore, called upon the assessee to explain the source for cash deposits to bank account. In response the assessee submitted that he had admitted additional income for the A.Y 2014-15 and 2015-16 in pursuant to survey conducted u/s 133A of the I.T. Act, 1961 amounting to Rs.40 lakhs towards advances and interest from his money lending business and also paid taxes for both the A.Ys. Further, the appellant has received back money from sundry debtors amounting to Rs.44,95,000/- including interest upto date of loan in cash and the same has been deposited into the Bank Account. The Assessing Officer however, was not convinced with the explanation offered by the assessee and according to the Assessing Officer, although the appellant has offered total income of Rs.20 lakhs each for A.Ys 2014-15 and 2015-16 and also paid taxes but failed to file the relevant evidences including the details of the borrowers and amount of interest received from them including confirmation from the parties to prove the credits, therefore, rejected the explanation of the assessee and made addition of Rs.44,95,000/- u/s 68 of the I.T. Act, 1961 as unexplained credit.

3. Being aggrieved by the assessment order, the assessee preferred an appeal before the learned CIT (A). Before the learned CIT (A) the assessee reiterated its stand taken before the Assessing Officer and submitted that the source for cash deposit

is out of amount realized from sundry debtors and the same has been recorded in the books of account of the assessee. Further, as per the cash book maintained by the assessee, the cash balance as on 8.11.2016 is more than the amount of cash deposits to bank account. The assessee had also furnished the list of debtors from whom he has received cash. The Assessing Officer without appreciating the relevant facts, made addition towards the amount received from sundry debtors as unexplained cash credit u/s 68 of the I.T. Act, 1961. The learned CIT (A) after considering the relevant submission of the assessee and also taken note of the relevant reasons given by the Assessing Officer opined that the assessee could not establish the identify, genuineness and credit worthiness of the parties from whom the appellant has claimed to have received back money which is evident from the facts brought on record by the Assessing Officer which clearly shows that the persons from whom moneys were received are petty in nature and they did not have proper bank account. Therefore, the learned CIT (A) opined that the appellant has not been able to explain the credits to the satisfaction of the Assessing Officer and thus, there is no error in the reasons given by the Assessing Officer to make the addition towards amount claimed to have received from the sundry debtors including the interest amounting to Rs.44,95,000/- u/s 68 of the I.T. Act, 1961.

4. Aggrieved by the order of the learned CIT (A), the assessee is in appeal before the Tribunal.

5. The learned Counsel for the assessee submitted that the learned CIT (A) erred in sustaining the addition made by the Assessing Officer towards the cash credit u/s 68 of the Act without appreciating the fact that the appellant has explained the source for cash deposit out of repayment of loan advances from his money lending business and the same has been recorded in the cash book. The learned Counsel for the assessee took me to the relevant evidences including the statement recorded during the course of survey on 20.02.2015 where the appellant has offered sum of Rs.20 lakhs each for A.Y 2014-15 and 2015-16. He further took me to the assessment order passed by the Assessing Officer for both the A.Ys where the Assessing Officer has accepted additional income offered by the assessee towards possible discrepancies in loans and advances given by the assessee and interest earned from the above party. The appellant has received back the loan and advances given to various parties with interest and the same has been recorded in his books of account which is the source for cash deposit during the demonetization period. The assessee had also obtained confirmation letters from the parties to prove the identity, genuineness of the transaction and creditworthiness of the parties. The Assessing Officer and the learned CIT (A) without appreciating the relevant facts made addition u/s 68 of the I.T. Act.

6. The learned DR, on the other hand, supporting the orders of the learned CIT (A) submitted that the averments in the

light of survey u/s 133A is against the theory of human probabilities as held by the Hon'ble Supreme Court in the case of CIT vs. Durga Prasad More (1971) 82 ITR 540 (S.C). Although the appellant claims to have received back money from debtors but no evidence has been filed. Therefore, the Assessing Officer and the learned CIT (A) had rightly rejected the explanation of the assessee and made addition u/s 68 of the I.T. Act, 1961.

7. I have heard both the parties, and considered the relevant assessment order and appellate order in the light of paper book filed by the assessee. There is no dispute with regard to the fact that the appellant had offered sum of Rs.20 lakhs each in consequent to survey conducted u/s 133A of the I.T. Act, 1961 for the A.Ys 2014-15 & 2015-16 towards the loans and advances given to various parties and interest earned therein. In fact, the Assessing Officer and the learned CIT (A) never disputed the fact that the appellant had offered additional income for both the A.Ys and paid taxes. The appellant claims that he had received back sum of Rs.40 lakhs from various parties from whom he has given loans and advances in earlier financial years. The appellant further claims that he has received loans and advances given by him during this financial year in cash along with interest amounting to Rs.44,95,000/-. The appellant has filed the relevant details such as names and addresses of the persons from whom he had given loan and advances and received back during this financial year. The appellant had also filed confirmation letters

from the parties. The amount received back from the debtors has recorded in the books of account of the assessee which is evident from cash book maintained by the assessee. From the details furnished by the assessee, it is abundantly clear that the appellant has received back money from debtors in cash during the financial year 2016-17 relevant to A.Y 2017-18 which is the source for cash deposits into the bank account during the demonetization period. Since the appellant has furnished the identity of the creditors and also proved the genuineness of the transactions and their creditworthiness, in my considered opinion, the Assessing Officer has erred in making addition towards the amount received from debtors as unexplained cash credit u/s 68 of the I.T. Act, 1961. The learned CIT (A) without appreciating the relevant facts simply sustained the addition made by the Assessing Officer. Thus, I set aside the order passed by the learned CIT (A) and direct the Assessing Officer to delete the addition made towards the amount received from sundry debtors amounting to Rs.44,95,000/- u/s 68 of the I.T. Act, 1961.

8. In the result, appeal filed by the assessee is allowed.

Order pronounced in the Open Court on 26th June, 2024.

Sd/-

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

Hyderabad, dated 26th June, 2024

Vinodan/sps

Copy to:

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2	Income Tax Officer Ward -1 Opp: Childrens Park, NRPet, Kurnool 518001
3	Pr. CIT – Kurnool
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order