

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

**Before Shri Manjunatha, G. Accountant Member and**  
**Shri K. Narasimha Chary, Judicial Member**

आ.अपी.सं / **ITA No.559/Hyd/2023**  
(निर्धारण वर्ष/Assessment Year: 2017-18)

Shri Palle Sathish Goud Chintal Basti Hyderabad PAN:AIJPP5303N (Appellant)	Vs.	Income Tax Officer Ward 7(1) Kondapur, Hyderabad (Respondent)
निर्धारिती द्वारा/Assessee by:		Shri Sashank Dundu, Advocate
राजस्व द्वारा/Revenue by:		Smt.Sheetal Sariin, DR
सुनवाई की तारीख/Date of hearing:		10/07/2024
घोषणा की तारीख/Pronouncement:		12/07/2024

**आदेश/ORDER**

**Per Manjunatha, G. A.M**

This appeal filed by the assessee is directed against the order dated 17/08/2023 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2017-18.

2. The assessee raised the following grounds:

1. The National Faceless Appeal Centre(NFAC) erred in confirming the addition made by the Assessment Officer, to the extent of Rs 10,00,000/-, u/s 69A of the Act, on an incorrect appreciation of facts and circumstances of the case.
2. The First Appellate Authority failed to appreciate that the Appellant received money from his father which inturn was deposited in the bank account and the same is supported by the bank account copy of Appellant's father; by producing the bank statement of the Appellant's father the initial burden of proving the identity, genuineness and creditworthiness of person is established, in which event the burden is upon the Revenue to prove that the said amount was not available with the Appellant for making cash deposit or the Appellant has any other conceivable source of income which can be said to be source for unexplained cash deposit falling within the ken of Sec. 69A of the Act.
3. The NFAC erred in giving more emphasis to the gap between the amount received from Appellant's father and date of deposit of the same in Appellant's bank account, on mere suspicion and surmises, by completely ignoring the factual matrix of the case i.e, advanced age of the father and the need to keep some hard cash readily available for attending medical needs.
4. Without prejudice to the above, the NFAC ought to have noticed that the cash deposits having been made by the Appellant in the month November, 2016 the higher tax rate of 60% provided under Sec. 115BBE is not applicable in view of the fact that the said amendment received the assent of the Hon'ble President of India on 15.12.2016, whereas the impugned transactions took place prior to the said date and thus even if an addition is inevitable the tax rate would be 30% as per un-amended provisions of Sec. 115BBE of the Act.
5. For these and other grounds that may be urged at the time of hearing, appellant prays that the Hon'ble Tribunal may be pleased to delete the arbitrary addition made and upheld by the lower authorities.

3. The brief facts of the case are that the assessee is an individual and filed his return of income for the A.Y 2017-18 admitting total income of Rs.3,45,510/-. The case was selected for scrutiny for the reason “cash deposit during demonetization period”. During the course of assesment proceedings, the Assessing Officer noticed that the assessee had deposited an amount of Rs.8,95,000/- in his bank account held with Andhra Bank and Rs.9,47,000/- in his Bank Account with SBH Hyderabad. The assessee has explained that out of the total cash deposits made in his bank accounts, Rs.15.00 lakhs is the amount which the assessee’s father has withdrawn from his saving bank account on 15.07.2013 and given to the assessee. The Assessing Officer however, was not convinced with the explanation offered by the assessee and according to the Assessing Officer, the assessee could not explain how huge cash withdrawals by his father was kept in cash in hand for such a long time. Therefore, rejected the argument of the assessee and made addition of Rs.15.00 lakhs u/s 69A as unexplained money and brought to tax u/s 115BBE of the I.T. Act, 1961.

4. Being aggrieved by the assessment order, the assessee preferred an appeal before the learned CIT (A). Before the learned CIT (A), the assessee stated that his father has withdrawn sum of Rs.15.00 lakhs from his Bank Account on 15.07.2013 and the same has been given to him which is the source for cash deposits during the demonetization period. The learned CIT (A) after

considering the relevant submission opined that although the appellant could not explain and offer any explanation for receipt of Rs.15.00 lakhs from his father, but considering the savings of family and out of past withdrawal allowed partial relief to the assessee and directed the Assessing Officer to restrict the addition made towards cash deposits u/s 69A of the Act to Rs.10.00 lakhs and taxed u/s 115BBE of the act.

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

6. The learned Counsel for the assessee submitted that the learned CIT (A) failed to appreciate the fact that the appellant has received money from his father which in turn was deposited in the bank account and the same is supported by the bank account copy of the appellant's father. The learned Counsel for the assessee further submitted that the learned CIT (A) erred in upholding the reasons given by the Assessing Officer to tax cash deposit u/s 115BBE of the I.T. Act, 1961 at 60% without appreciating the fact that the said provisions has come into the statute by the Finance Act with the ascent of the Hon'ble President of India on 15.12.2016, whereas the impugned transaction took place prior to the date of said date i.e. in the month of November, 2016. Therefore, he submitted that the addition made by the Assessing Officer and taxing the said

addition u/s 115BBE of the I.T. Act, 1961 is incorrect and should be deleted.

7. The learned DR, on the other hand, supporting the order of the learned CIT (A) submitted that the assessee could not adduce any reason and also failed to explain the source for cash deposit into his bank account before the demonetization period, except stating that his father had given sum of Rs.15.00 lakhs out of his past withdrawals. The learned CIT (A) after considering relevant facts has rightly allowed partial relief to the assessee and thus, the order of the learned CIT (A) should be upheld.

8. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. Although the appellant claims to have received Rs.15.00 lakhs from his father out of his past withdrawals, but no evidence has been filed to justify the claim. Further, the appellant also failed to file the relevant bank statements of his father to prove that there is enough source of income for his father justifying such huge amount of cash withdrawals in the past. Unless the appellant adduced proper evidences, the argument of the assessee that the source for cash deposit is out of the amount received from his father cannot be accepted. At the same time, the learned CIT (A) after considering the history of the family and explanation offered by the assessee has allowed relief to the extent of Rs.5.00 lakhs towards source for cash deposits. In our

considered view, although the learned CIT (A) has allowed partial relief, but such relief has been given on adhoc basis without there being any reason as to why only relief can be given to the extent of Rs.5.00 lakhs. On the other hand, the assessee claims that the assessee is into the business of real estate and also filed ITRs for earlier periods. If we consider the income declared by the assessee for earlier period and the income of his father from his pension and corresponding withdrawals from his bank account, the source for the cash deposit into the bank account is fully explained. We find that the appellant has deposited sum of Rs.18,42,000/- into his bank account. Therefore, even if we consider the explanation of the assessee that the appellant has accumulated some amount of cash in hand out of his past savings and also from his father's savings, he could not explain source for cash deposit to the extent of Rs.18,42,000/-. Therefore, considering the income of the appellant and his father's income, we are of the considered view that a reasonable amount of cash in hand can be attributable as source of income for cash deposits during the demonetization period. Thus, considering the facts and circumstances of the case, we direct the Assessing Officer to accept the explanation of the assessee with regard to the source for cash deposits to the extent of Rs.10.00 lakhs out of the additions made by the Assessing Officer for Rs.15.00 lakhs. In other words, the appellant gets relief to the extent of Rs.10.00 lakhs out of the total addition made by the Assessing Officer of Rs.15.00 lakhs u/s 69A of the I.T. Act, 1961. The addition made

by the Assessing Officer to the extent of Rs.5.00 lakhs is sustained u/s 69A r.w.s. 115BBE of the I.T. Act, 1961.

9. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the Open Court on 12<sup>th</sup> July, 2024.

Sd/-

Sd/-

<b>(K. NARASIMHA CHARY) JUDICIAL MEMBER</b>	<b>(MANJUNATHA, G.) ACCOUNTANT MEMBER</b>
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Hyderabad, dated 12<sup>th</sup> July, 2024

*Vinodan/sps*

Copy to:

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2	Income Tax Officer Ward 7(1) Signature Towers, Sy.No.6(P) of Kondapur, Sy.37(P) of Kothaguda, Opp: Botanical Garden, Serilingampalli, Hyderabad
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*