

आयकर अपीलीयअधिकरण, विशाखापटणम **SMC** पीठ, विशाखापटणम
IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM **SMC** BENCH, VISAKHAPATNAM

श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य के समक्ष

BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER
(Through Hybrid Hearing)

आयकर अपील सं./ I.T.A. No.179/Viz/2024
(निर्धारण वर्ष / Assessment Year : 2017-18)

Satya Pattabhiram Thakasi,
9-1-74/3, Lakshmi Narayana
Nagar, Anakapalli – 531001,
Andhra Pradesh.
PAN: ABJPT5614K
(अपीलार्थी/ Appellant)

अपीलार्थी की ओर से/ Appellant by
प्रत्यार्थी की ओर से / Respondent by

Vs. Income Tax Officer,
Ward-1,
Aayakar Bhavan,
Gandhinagar, Anakapalli,
Andhra Pradesh-531001.
(प्रत्यर्थी/ Respondent)

Sri C. Sanjeev Rao, AR
Dr. Aparna Villuri, Sr. AR

सुनवाई की तारीख / Date of Hearing : 24/07/2024
घोषणा की तारीख/Date of
Pronouncement : 27/08/2024

ORDER

PER DUVVURU RL REDDY, Judicial Member :

This appeal filed by the assessee is against the order of the Learned Addl/JCIT(A), Panaji in DIN & Order No. ITBA/APL/S/250/2023-24/1061602660(1), dated 2017-18 arising out of the order passed U/s. 143(3) of the Income Tax Act, 1961 [“the Act”] for the AY 2017-18.

2. Briefly stated the facts of the case are that the assessee is an individual and deriving income by way of commission from real estate business and interest income. The assessee filed his return of income for the AY 2017-18 on 16/12/2017 admitting a total income of Rs. 3,84,000/-. Subsequently, the case was selected for limited scrutiny under CASS to examine the cash deposits made by the assessee in his bank account(s) during demonetization period. Accordingly, notice U/s. 143(2) of the Act was issued to the assessee on 14/08/2018 and duly served on the assessee. Thereafter, a notice U/s. 142(1) of the Act was issued and served on the assessee and called for certain information. As there was no response from the assessee, a show cause notice was issued on 14/12/2019. In reply, the assessee furnished the information ie., copies of bank account statements, cash book, ledger extracts, confirmation letters etc., for verification. During the assessment proceedings, the assessee was asked to explain the sources for the cash deposits of Rs. 17,84,000/- made by the assessee in his bank accounts held with State Bank of India, The Federal Bank and Bank of India. However, the Ld. AO observed that the assessee could not explain the sources for cash deposits of Rs. 2,09,108/- made in Federal Bank towards payment of Gold Loan. In the absence of any

proper explanation, the Ld. AO treated the cash deposits to the extent of Rs. 2,09,108/- as unexplained cash deposits in the hands of the assessee U/s. 69A of the Act and added the same to the total income of the assessee. Thus, the Ld. AO determined the total income of the assessee at Rs. 5,93,108/- which includes addition of Rs. 2,09,108/- towards unexplained cash deposits. Aggrieved by the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A).

3. On appeal, after considering the submissions of the assessee, the Ld. Addl/JCIT(A), Panaji dismissed the appeal of the assessee by holding that *“the assessee has not furnished any satisfactory explanation supported by cogent material evidence even during the appellate proceedings, it is held that there is no infirmity in the assessment order as such addition of Rs. 2,09,108/- U/s. 69A r.w.s 115BBE as unexplained cash deposits are upheld”*. Aggrieved by the order of the Ld. Addl/JCIT(A), Panaji, the assessee is in appeal before the Tribunal by raising the following grounds of appeal:

- “1. That the Ld. Addl/JCIT, Panaji erred in upholding the order of the Ld. AO and not allowing the source of the deposits, ignoring the facts are bad in law and arbitrary.

2. *That the Ld. Addl/JCIT(A) erred in confirming the addition of 2,09,108/- made by the Ld. AO though the appellant had adduced the evidences and explained the source of deposits in.*
3. *That the Ld. Addl/JCIT(A) erred in not expressing his opinion on the charge of interest U/s. 234B of the Income Tax Act, 1961 having regard to the facts of the case. The appellant denies its liability for payment of interest U/s. 234B of the Act.*
4. *Each one of the above grounds of appeal is without prejudice to each other.*
5. *That the appellant craves leave to add/alter any of the grounds of appeal on or before the time of hearing.”*

4. At the outset, the Ld. AR for the assessee submitted that the Ld. Addl/JCIT(A)'s decision in confirming the addition of 2,09,108/- made by the Ld. AO is not in accordance with law as the appellant had adduced the evidences and explained the source of deposits. The Ld. AR further submitted that before the Ld. Revenue Authorities it was explained by the assessee that the deposits of Rs. 2,09,108/- were made before demonetization period and the sources for the same were also explained. However, the Ld. Addl/JCIT(A) did not consider the submissions of the assessee and confirmed the addition made by the Ld. AO. The Ld. AR therefore pleaded that the addition may be deleted.

5. The Ld. Departmental Representative ["Ld. DR"] relied on the orders of the Ld. Revenue Authorities and argued in support of the same.

6. I have heard both the sides and perused the material available on record as well as the orders of the Ld. Revenue Authorities. On perusal of the Ld. Addl/JCIT(A) order, I find that, vide page-7 of the Ld. Addl/JCIT(A) order, it is appears that the assessee has provided the details of date wise cash deposits with respect to disputed cash deposit of Rs. 2,09,108/-. It is also apparent from the said details that the assessee has made the cash deposits between 13/06/2016 to 21/07/2016 whereas the demonetization was announced on 08/11/2016 and continued till 30/12/2016. Therefore, I am of the view that the alleged deposits of Rs. 2,09,108/- are not during the demonetization period and they were made much prior to the demonetization period for the purpose of repayment of Gold Loans in Federal Bank. Further, I also find that while furnishing the details of cash deposits, the assessee has also submitted the copy of the cash book before the Ld. Addl/JCIT(A). However, the Ld. Addl/JCIT(A) without considering these facts dismissed the appeal of the assessee. In this situation, I am of the considered view that the assessee made the alleged cash deposits prior to the period of demonetization and properly explained the cash deposits of Rs. 2,09,108/-. Hence, the disallowance made by the Ld. AO is not warranted and the Ld. Addl/JCIT(A) is also not correct in

upholding the decision of the Ld. AO. Therefore, I hereby direct the Ld. AO to delete the addition of Rs. 2,09,108/- made U/s. 69A r.w.s 115BBE of the Act. It is ordered accordingly.

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

Pronounced in the open Court on 27th August, 2024.

Sd/-
(दुव्वूरु आर.एल रेड्डी)
(DUVVURU RL REDDY)
न्यायिकसदस्य/JUDICIAL MEMBER

Dated :27/08/2024
OKK - SPS

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee – Satya Pattabhiram Thakasi, 9-1-74/3, Lakshmi Narayana Nagar, Anakapalli – 531001, Andhra Pradesh.
2. राजस्व/The Revenue – Income Tax Officer, Ward-1, Aayakar Bhavan, Gandhinagar, Anakapalli, Andhra Pradesh-531001.
3. The Principal Commissioner of Income Tax,
4. आयकर आयुक्त (अपील)/ The Commissioner of Income Tax (Appeals),
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/ DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam