

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "A" , HYDERABAD**

**BEFORE**

**SHRI LALIET KUMAR, HON'BLE JUDICIAL MEMBER  
AND  
SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER**

ITA No.611/Hyd/2024		
Assessment Year: 2017-18		
Yadi Reddy Basupally, Plot No.156, Vasavi Nagar, Old Alwal, Secunderabad – 50010, Telangana.  PAN : ABDPB6562A.	Vs.	The Assistant Commissioner of Income Tax, Circle 13(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Shri V. Venkata Rao, Advocate.	
Revenue by:	Shri Sadanala Srinath, Sr.AR.	
Date of hearing:	02.09.2024	
Date of pronouncement:	03.09.2024	

**ORDER**

**PER LALIET KUMAR, J.M.**

This appeal is filed by the assessee, feeling aggrieved by the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 18.04.2024 for the AY 2017-18 on the following grounds :

*“1. The Ld CIT(A) ought to have allowed the deposits for demonitisation period (3 months) also, as the deposits have been allowed for the remaining period (9 months) by the Ld CIT(A) u/s 250 of IT Act, as nature of deposits is from the same activity which is carrying out of business.*

*2. The Ld CIT(A) erred in confirming addition u/s 69A r.w.s 115BBE of IT Act, at higher rate when Ld CIT(A) himself treats the income of the assessee as business income earned from commission.*

*3. The Ld CIT(A) ought to have considered that the nature of transactions in bank account of the assessee for the whole year are from same source and allowed the transactions for demonitisation period also.”*

3. Facts of the case, in brief, are that assessee, who is a retired person from National Remote Sensing Centre, e-filed his return of income for the assessment year 2017-18 in ITR-3 on 30/05/2018 declaring a total income of Rs.4,43,590/-. The case was selected for complete scrutiny through CASS to examine the cash deposit during demonetization period. Accordingly, Notice u/s 143(2) of the Income Tax Act, 1961 was issued on 22/09/2019. Thereafter, information u/s 133(6) of the Income Tax Act, 1961 was also sought and obtained from the Branch Manager, State Bank of India. Further, Notice u/s 142(1) of the Income Tax Act, 1961 was issued on 04/12/2019, for which assessee failed to respond. Subsequently, Assessing Officer came to know that assessee has deposited Rs 4,26,75,970/- in Current A/c No 34807190718 and Rs. 25,99,450/- in Savings A/c No 10442335871 totaling a sum of Rs. 4,52,75,420/- in cash during de-monetization period (09/11/2016 to 30/12/2016) and that the nature of business of the assessee was commission agent. On

31.12.2019 the assessee appeared and stated that after retirement from NRSC, he worked as a customer service provider/agent for selling I cash cards and doing domestic money transfer on behalf of SBI and he was the proprietor for M/s Meena Enterprises. From 2015 onwards he stopped doing the business. However, the assessee could not produce any documentary evidence though he was given sufficient opportunities to explain the nature and the source for the cash deposits made into the account. In the absence of any evidence, the entire cash deposit appearing in the Current A/c as well as Savings A/c totaling to Rs.4,52,75,420/- was brought to tax U/s 69A of the I.T Act and taxed U/s 115BBE. Accordingly, Assessing Officer completed the assessment u/s 144 of the IT Act on 31.12.2019 and thereafter, initiated penalty proceeding separately under section 270A of the Income Tax Act, 1961 for under-reporting of income.

4. Feeling aggrieved by the order passed by the assessing officer, assessee filed appeal before the Ld. CIT(A) / NFAC, who granted part relief to the assessee.

5. Feeling aggrieved with the order of ld.CIT(A), assessee is now in appeal before us.

6. In this regard, ld.AR has drawn our attention to Paras 6.4 to 6.6 of the order passed by ld.CIT(A) wherein the ld.CIT(A) had deleted the major addition made in the hands of the assessee for an amount of Rs.4,52,75,420/- and had further commented that the assessee had deposited an amount of Rs.15,63,500/- during the demonetization, and the assessee was not able to show the source of such cash deposits in the bank account. It was submitted by the ld.AR that the cash deposits made during the year under consideration prior to demonetization and after the demonetization were in the same ratio, and therefore no amount is required to be added in the hands of the assessee.

7. Per contra, the ld.DR has drawn our attention to Para 6.4, wherein the ld.CIT(A) has recorded that the appellant has not established the source of the cash deposits during the period of demonetization and has further not proved that the cash deposits were not in specified bank notes.

8. We have heard the rival submissions and perused the material on record. At the outset, ld.DR had submitted that the Revenue is not preferring the appeal against the deletion of Rs.4,52,75,420/- and ld.DR had received the communication for that from Assessing Officer. Now the only issue left is addition of Rs.15,63,500/- in the hands of assessee. The ld.CIT(A) in Para

6.3 has provided details of the cash deposits made by the assessee during the entire year in the table mentioned in Para 6.3, which is to the following effect :

Bank Name	A/c No.	Type	Cash deposited during demonetisation as taken by the AO (Actually cash deposited during the entire year)	Actual cash deposited during demonetisation as per bank statements (09.11.2016 to 30.12.2016)
SBI	34807190718	CA	4,26,75,970	12,90,000
SBI	10442335871	SB	25,99,450	2,73,500
			4,52,75,420	<b>15,63,500</b>

9. On the basis of the above said table, the Id.CIT(A) has deleted an amount of Rs.4,52,75,420/- by holding that the assessee was carrying out the functions as commission agent for SBI. It was the case of the assessee before the AO and the Id.CIT(A) that the cash deposits during the demonetisation period were transferred by the assessee to the bank account of SBI after collecting it from the customers of SBI. In our opinion, during the assessment proceedings as well as the proceedings of Id.CIT(A), the assessee has not provided the details of the persons from whom the cash was collected and deposited with the bank. The details such as name, bank account number, particulars of the account,

and the loan amount due have not been provided by the assessee. Therefore, it is difficult to accept the submission of the assessee that the entire amount deposited by the assessee was related to small bank account holders from whom the amount was recovered and deposited in his bank account in order to transfer the same to SBI. In the absence of these particular and clinching details, it is difficult to accept that the entire amount of Rs.15,63,500/- was the amount belonging to others, which was deposited by the assessee in the bank. In the absence of proof of the genuineness of the cash deposits in the bank account of the assessee during the demonetization period, we are of the considered opinion that an estimation is required to be made with respect to unexplained cash deposits of Rs.15,63,500/-. Considering the totality of the facts and circumstances, and more particularly, in view of the part relief granted by the Id.CIT(A) to the assessee, we are of the considered opinion that the ends of justice will be met if the addition of Rs.5,63,500/- is sustained, and the remaining amount of Rs.10,00,000/- is deleted from the total income of the assessee. We are passing this order based on the peculiar facts and circumstances of the case and on an estimation basis. Thus, the appeal of the assessee is partly allowed.

10. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the Open Court on 3<sup>rd</sup> September, 2024.

<b>Sd/-</b> <b>(G. MANJUNATHA)</b> <b>ACCOUNTANT MEMBER</b>	<b>Sd/-</b> <b>(LALIET KUMAR)</b> <b>JUDICIAL MEMBER</b>
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Copy to:

S.No	Addresses
1	Yadi Reddy Basupally, Plot No.156, Vasavi Nagar, Old Alwal, Secunderabad – 50010, Telangana.
2	The Assistant Commissioner of Income Tax, Circle 13(1), Hyderabad.
3	Pr.CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*