

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

आयकर अपील सं./ I.T.A. No.251/Viz/2024
(निर्धारण वर्ष / Assessment Year : 2017-18)

Venkata Ramana Vonna, Srikakulam. PAN: ABIPV2254N (अपीलार्थी/ Appellant)	Vs.	Income Tax Officer, Ward-1, Srikakulam. (प्रत्यर्थी/ Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Sri I. Kama Sastry, AR
प्रत्यर्थी की ओर से / Respondent by	:	Dr. Aparna Villuri, Sr. AR
सुनवाई की तारीख / Date of Hearing	:	04/09/2024
घोषणा की तारीख/Date of Pronouncement	:	25/09/2024

O R D E R

PER DUVVURU RL REDDY, Judicial Member :

This appeal filed by the assessee is against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ["Ld.CIT(A)-NFAC"] in DIN & Order No. ITBA/NFAC/S/250/2024-25/1064396800(1), dated 26/04/2024 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 relevant facts of the case are that the assessee is an individual filed his return of income for the AY 2017-18 on 12/03/2018 as against the due date of filing of RoI was 05/08/2017 declaring a total income of Rs. 3,69,000/-. The assessee is deriving income from salary (Rs. 1,44,000/-) and from other sources (Rs. 2,25,000/-). Initially, the return of income was processed U/s. 143(1) of the Act by the CPC, Bangaluru on 29/05/2018. Later the case of the assessee was selected for limited scrutiny to examine the 'cash deposits during demonetization period'. Accordingly, notice U/s. 143(2) of the Act was issued through ITBA on 10/08/2018 and the same was served on the assessee on 20/08/2018. Subsequently, a notice U/s. 142(1) of the Act was issued on 02/04/2019 called for bank statements of the assessee and the assessee was also asked to furnish the corroborative verifiable evidence for cash deposits made into the bank account during the demonetization period. In response, the assessee furnished certain information through ITBA on 23/04/2019. Further, the assessee also mentioned in the reply that he is not having business income and hence not maintaining cash book. The Ld. AO also issued notice U/s. 133(6) of the Act to the Karur Vysya Bank Ltd, Narasannapeta Branch and Canara Bank, Narasannapeta Branch and called for the

details of account statement, cash deposits made by the assessee during the FY 2016-17 during the demonetization period. Accordingly, based on the information received from the banks, the Ld. AO asked the assessee to furnish corroborative / verifiable evidence for cash deposits. Vide letter dated 17/07/2019, the assessee submitted his reply to the Ld. AO and stated that he has disposed of the agricultural land at Dugalapadu Panchayat for Rs. 10,41,000/-. The assessee further submitted that the sale proceeds along with accumulated savings was given to another person for purchase of land and the said deal was cancelled in the FY 2014-15. The amount so returned back in the AY 2014-15 was subsequently given to Smt. Voonna Sasikala as a loan. However, the Ld. AO did not consider the submissions of the assessee in absence of any corroborative evidence for every cash transaction entered into by the assessee for verifying and examining the fact. Accordingly, the Ld. AO invoked the provisions of section 69A of the Act and made addition of Rs. 10,19,000/- as unexplained money in the hands of the assessee and taxed the same U/s. 115BBE of the Act. The Ld. AO also initiated the penalty proceedings U/s. 271AAC of the Act. Thus, the Ld. AO completed the assessment U/s. 143(3) of the Act and passed the assessment order on 23/12/2019.

Aggrieved by the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A)-NFAC.

3. On appeal, in response to the notices dated 27/01/2021; 05/02/2024; 19/04/2024 issued U/s. 250 of the Act, the assessee made his submissions on 14/02/2021 and 23/04/2024 before the Ld.CIT(A)-NFAC and reiterated the submissions made before the Ld. AO. The Ld.CIT(A)-NFAC extracted the reply given by the assessee, in verbatim, vide para-5 of the his order. Vide paras 7 & 8 of his order, the Ld. CIT(A)-NFAC discussed the issue at length and held that the burden lies on the assessee to explain the nature and source of cash deposits and without such corroborative evidence, the cash deposited in old currency notes during the demonetization found in the bank account of the assessee are treated as unexplained. Accordingly, the Ld. CIT(A)-NFAC sustained the addition made by the Ld. AO and dismissed the appeal of the assessee. Aggrieved by the order of the Ld. CIT(A)-NFAC, the assessee is in appeal before the Tribunal by raising the following grounds:

- “1. The assessment order U/s. 143(3) dated 23/12/2019 passed by the ITO, Ward-1, Srikakulam is null and void as the same is passed without DIN Number and in violation of the CBDT.*

2. *The Ld. CIT(A), NFAC is not justified in confirming the action of the Ld. AO in treating the amount of Rs. 10,19,000/- being cash deposits in bank as unexplained income U/s. 69A.*
3. *The Ld. CIT(A)-NFAC is not justified in confirming the action of the AO in treating Rs. 8,78,000/- as unexplained cash credits U/s. 68.*
4. *The appellant craves leave to add to, alter; modify; delete any of the above grounds of appeal.”*

4. At the outset, the Learned Authorized Representative [“Ld. AR”] submitted that the assessee has sold the agricultural land on 27/05/2011 in FY 2010-11 for Rs. 10,41,000/-. The sale proceeds along with accumulated savings of the assessee were given as an advance to Mr. K. Simmaya to purchase another agricultural land. However, the transaction did not materialize due to some problems and the total advance of Rs. 11,75,000/- given by the assessee was returned to the assessee during FY 2014-15. Then, the assessee deposited the same in his Canawra Bank account during FY 2016-17 during demonetization period. Later on, the amount was given as loan to Smt. Voonna Sasikala. The Ld. AR further submitted that in support of the assessee’s contention, the assessee has also furnished the sale deed – cum – GPA for Rs. 10,41,000/- on sale of 1041 sq yds Satyavaram Village. Further, the assessee has also submitted the affidavit from Shri K. Simmayya to state that he has received the advance from the assessee. The Ld. AR submitted that though these facts

were submitted by the assessee before the Ld. Revenue Authorities, they have not considered the same. Therefore, the Ld. AR pleaded that the decision of the Ld. Revenue Authorities in treating the amount of Rs. 10,19,000/- being cash deposits in bank as unexplained income U/s. 69A is not in accordance with law and therefore the addition may be deleted the assessee may be granted relief.

5. On the other hand, Ld. Departmental Representative [“Ld. DR”] vehemently opposed to the submissions of the assessee and argued in support of the orders of the Ld. AO and the Ld. CIT(A)-NFAC. The Ld. DR further submitted that the onus is on the assessee to furnish corroborative verifiable evidence for every cash transaction but the assessee has not discharged his onus and did not furnish any verifiable documentary evidence in support of the assessee’s claim. Therefore, the Ld. DR pleaded that there is no infirmity in the orders of the Ld. Revenue Authorities and prayed to uphold the order of the Ld.CIT(A)-NFAC.

6. I have heard both the sides and perused the orders of the Ld. Revenue Authorities as well as the material available on record. The case of the assessee is that though the alleged cash

deposits are property explained but the Ld. AO and the Ld. CIT(A)-NFAC did not consider the same and made the addition U/s. 69A r.w.s 115BBE of the Act which is unsustainable in law. On careful perusal of the contention of the assessee and the orders of the Ld. Revenue Authorities, I find that after considering the assessee's submissions and after discussing the matter at length, the Ld. CIT(A)-NFAC extracted the crux of the Ld. AO's observations, vide para 8.2 of his order as under:

"8.2. The Ld. AO made following observations before treating the amount of Rs. 10,19,000/- as unexplained credits U/s. 68 of the Act as follows:

- (i) The bank account statements show that the assessee is well acquainted with the banking channels and the property was transferred to 2-person. The sale deed dated 27/05/2011 reveals that out of 2 persons, one is employee and other person is doing business. Besides assessee, both persons will have bank accounts and can insist for payment other than mode of cash.*
- (ii) Further the submission of the assessee that amount received in FY 2014-15 was kept for approximately two years before depositing in the bank account is not a tenable explanation. The assessee is unable to furnish the events with date / amount with cogent evidence to examine.*
- (iii) The assessee in his letter stated that advance given for purchase of land was returned back to him in FY 2014-15, the same was given as loan to Smt. Voona Sasikala. However, on verification of the Canara Bank account it is noticed that Rs. 10,00,000/- was given to NBC Gold on 13/11/2016 and not to Smt. Voona Sasikala as submitted by the assessee."*

7. Further, the Ld. CIT(A)-NFAC a vide para 8.3 of his order observed as under:

“8.3. I have considered the findings of the AO, facts of the case and contentions of the appellant and I am constrained to concur with the AO with regard to the additions discussed above. The appellant has tried to explain the source of cash deposit by the amount of advance received by him during the financial year 2014-15. But it is very difficult to presume that appellant has kept that money / cash in his house for two long years despite the fact that he has banking facility. It is very interesting that appellant given the advance for purchasing land in FY 2010-11 which was returned to him in 2014-15 ie., after two long years without any interest by the third party and again he kept that money / cash with him instead of depositing it in the account. It is difficult to imagine that a prudent person will keep his funds idle and forego even the basic interest which he can earn even putting it in bank account. Thus, appellant could not improve upon its case during the appellate proceedings. The appellant failed to submit any documentary evidence to back up the claims which appear as mere assertions without any hard evidence to hold it up. The appellant has not produced any additional facts before this appellate requiring deliberation and discussion to succeed on the grounds raised against the additions and owing to the dearth of substantiating evidence, there is no scope for much disclosure on the issue dealt with in this instant case.”

8. On perusal of the above observations of the Ld. AO and the Ld. CIT(A)-NFAC, I am of the considered view that the assessee has not discharged his onus to substantiate his claim along with any cogent documentary verifiable evidence to explain the nature and source of cash deposits. The only contention of the assessee is that he has sold agricultural property and entered into a GPA but the deal was not materialized and he has received the sale consideration from the GPA holder and given the said amount to one Smt. Voona Sasikala as a loan during the FY 2014-15. But,

there is no evidence to establish these facts before me. Therefore, I am of the view that in the absence of any corroborative evidence, the cash deposits made by the assessee in his bank accounts during the demonetization period in old currency notes were rightly treated by the Ld. Revenue Authorities as unexplained and invoked the provision of section 69A of the Act. Accordingly, in view of the above facts and circumstances of the case, I find no infirmity in the order of the Ld. CIT(A)-NFAC and hence no interference is required in his decision. The grounds raised by the assessee are dismissed.

9. In the result, appeal of the assessee is dismissed.

Pronounced in the open Court on 25th September, 2024.

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

Dated :25/09/2024
OKK - SPS

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

1. निर्धारिती/ The Assessee – Venkata Ramana Voonna, Voonna Vari Street, Narasannapeta, Srikakulam, Andhra Pradesh – 532421.
2. राजस्व/The Revenue – the Income Tax Officer, Ward-1, O/o. ITO, Palakonda Road, Srikakulam, Andhra Pradesh-532103.
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