

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

BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / **ITA No.378/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2017-18)

Shri Pramod Jain, Agapura(Telangana) PAN:AUVPJ4750H (Appellant)	Vs.	Income Tax Officer, Ward-7(2), Kondapur (Telangana). (Respondent)
निर्धारिती द्वारा / Assessee by:	Shri Ramesh Chand Jain, C.A.	
राजस्व द्वारा / Revenue by::	Shri S.Mookambikeyan, SR-DR	
सुनवाई की तारीख / Date of hearing:	13/11/2024	
घोषणा की तारीख / Pronouncement:	02/12/2024	

आदेश/ORDER

PER MADHUSUDAN SAWDIA, A.M.:

This appeal is filed by Shri Pramod Jain, Agapura (Telangana) ("the assessee"), feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), dated 26.03.2024 for the A.Y. 2017-18.

2. The assessee has raised the following grounds :

“ 1. The Order of Learned CIT (A) is against the facts and provisions of law in so far as confirming addition of a sum of Rs.10,50,000 (being the amount deposited during the demonetization period) to returned income.

2. The Learned CIT (A) erred in confirming the addition of Rs. 10,50,000/- though sufficient material were submitted to justify the source of cash deposits and the same were arbitrarily and without basis rejected.

3. The Learned CIT (A) failed to consider in proper perspective that The Appellant has sufficient source of Income and cash balance for depositing the impugned amount. Appellant has been filing returns of income from A.Y:2013-14 and has been receiving salary income as well as rental income apart from income from Interest, tuitions etc.

4. The Learned CIT (A) as well as A.O. failed to consider the documentary evidence of Bank Pass Book reflecting Bank Interest from saving Bank Account of Rs. 18020/- and claimed Deduction U/s 80TTA of Rs. 10000/-, which can be clearly seen from Bank Pass Book of Appellant.

5. Appellant therefore prays Hon'ble ITAT in view of above grounds and other grounds to be submitted at the time of hearing. To direct for deletion of addition of Rs. 10,50,000/- or pass any other order/s as Hon'ble ITAT deem fit & proper.

6. The Learned A.O. erred in levying tax U/s. 115 BBE on the additions since assessee has Income from Rent and Interest only and deposits were only from these incomes.”

3. The brief facts of the case are that the assessee is an individual filed his Return of Income (“ROI”) on 27.05.2017 for the A.Y. 2017-18 admitting a total income of Rs.1,62,020/-. The case of the assessee was selected for scrutiny under CASS with reason “large value cash deposits during demonetisation period as compared to returned income”. Accordingly, notice u/s.143(2) of the Income Tax Act, 1961 (“the Act”) as well as other notices u/s.142(1) of the Act were issued by the Learned Assessing Officer (“Ld. AO”). However, there was non-compliance on the part of the assessee before the Ld. AO. The Ld. AO found that the assessee had deposited Rs.10,50,000/- in Punjab National Bank during demonetisation period. Further the assessee had also claimed deduction under Chapter VIA of the Act amounting to Rs.73,585/-. Finally the Ld. AO completed the assessment u/s.144 of the Act on 29.11.2019 treating the cash deposit of Rs.10,50,000/- as unexplained u/s.69 of the Act and also made addition of Rs.73,585/- due to lack of evidence towards claim of deduction under Chapter VIA of the Act.

4. Aggrieved with the order of Ld. AO, the assessee filed appeal before the Ld. CIT(A). Before the Ld. CIT(A), the assessee filed evidence of payment of LIC premium for Rs.63,581/-

towards deduction claimed under Chapter VIA. Therefore the Ld. CIT(A) deleted the addition made by the Ld. AO on account of deduction under Chapter VIA by Rs.63,581/- and sustained the addition of Rs.10,000/- on account of deduction claimed by the assessee u/s. 80TTA due to non production of corresponding evidence. Further the Ld. CIT(A) confirmed the addition of Rs.10,50,000/-, doubting the maintenance of huge cash balance, receipt of gift in cash and low personal withdrawal by the assessee.

5. Aggrieved with the order of Ld. CIT(A), the assessee is in appeal before us. The Learned Authorised Representative ("Ld. AR") submitted that the assessee has been filing his ROI since A.Y. 2013-14 and he had submitted before the Ld. CIT(A), the copy of income tax return, computation and balance sheet for all the assessment years (page nos.27 to 40 of paper book), which shows that the assessee had cash balance of Rs.5,71,337/- as on 31.03.2016. The assessee had also submitted the copy of cash book w.e.f. 1.4.2016 to 8.11.2016 showing cash balance of Rs.10,82,693/- as on 8.11.2016 (page nos.42 to 44 of paper book). Finally, the assessee submitted that the cash of Rs.10,50,000/- was deposited in the bank account out of cash

balance available on 8.11.2016. Therefore the Ld. AR prayed before the bench to delete the addition made by the Ld. AO. The Ld. AR also submitted that, as the assessee had explained the sources of cash deposited before the Ld. AO, the tax rate u/s 115BBE of the Act should not be levied.

5.1 As far as the disallowance of Rs.10,000/- sustained by the Ld. CIT(A), the Ld. AR submitted that the deduction relates to interest received from bank and the copy of bank statement was submitted before the Ld. CIT(A). However, without considering the bank statement, the Ld. CIT(A) did not allow the deduction of Rs.10,000/- u/s.80TTA of the Act. Therefore the Ld. AR requested the bench to allow the same.

6. Per contra, the Learned Department Representative ("Ld. DR") relying on the order of Ld. CIT(A) submitted that, the assessee had accepted huge amount of gift in cash and did not fulfil the basic ingredients of section 69 of the Act related to identity, genuineness of the transaction and credit-worthiness of the donee. He also submitted that the maintenance of huge cash balance, while the assessee is having a bank account, reveals that the cash on hand shown by the assessee is not genuine and had been manipulated. Further the assessee was

involved in the business of money lending, however, no income from business has been shown by the assessee in his ROI. Therefore the amount of cash received shown by the assessee from debtors are not genuine. Finally, the Ld. DR reiterated to uphold the order of Ld. CIT(A).

6.1 In the rebuttal, the Ld. AR accepted that the assessee is involved in money lending business, but he clarified that the interest earns on money lending has been shown by the assessee under the head 'income from other sources.' Hence there is no escapement of income on the part of the assessee.

7. We have heard the rival contentions and also gone through the record in the light of the submissions made on either side. We also perused the income tax return, computation, balance sheet for A.Ys. 2013-14 to 2017-18 (page nos.27 to 40 of paper book) cash book from 1.4.2016 to 8.11.2016 (page nos.42 to 44 of paper book) and bank statements from 1.1.2014 to 9.2.2018 (page nos.45 & 46 of paper book). On perusal of these documents, we find that the assessee is having regular income from sources of salary, rent, interest and tuitions. In addition to these, the assessee also received gift during the A.Ys.2013-14 and 2017-18. The assessee had also received cash from loan

returned by the debtor during A.Y. 2017-18. The assessee also filed the confirmation with regard to gift receipt of Rs.2,00,000/- during A.Y. 2017-18 from Kunal Jain (page no.41 of paper book). Although by filing all these documents, the assessee demonstrated that he had cash balance of Rs.10,82,693/- as on 8.11.2016, he could not substantiate the cash receipts from various sources i.e. salary, rent, interest, receipt from debtors and gift, with documentary evidences. Therefore, in our view the documents submitted by the assessee are not sufficient to justify the case of the assessee. However, it also cannot be totally denied that no cash was received by the assessee. Therefore we are of the opinion that the justice will be done by deleting the addition of Rs.5.50 lakhs sustaining the addition of Rs.5.00 lakhs on account of cash deposited by the assessee. Therefore we direct the Ld. AO to delete the addition by Rs.5.50 lakhs on account of cash deposit. Further as the sources are not properly explained with documentary evidence, we uphold the levy of tax u/s.115BBE of the Act. Further with regard to addition of Rs.10,000/- on account of deduction claim u/s.80TTA of the Act, we make a direction to Ld. AO to verify the same with the documentary evidence and allow the deduction as per the

provisions of law. Accordingly, the grounds raised by the assessee are answered.

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

Order pronounced in the open Court on 2nd Dec., 2024.

Sd/-

(LALIET KUMAR)
JUDICIAL MEMBER

Sd/-

(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Hyderabad.

Dated: 02.12.2024.

* *Reddy gp*

Copy of the Order forwarded to :

1. Shri Pramod Jain, 14-1-465, CIB 412, Pan Mandi, Agapura, Hyderabad-500 012
2. ITO, Ward 7(2), Hyderabad.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. Guard file.

BY ORDER,