

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “SMC”, HYDERABAD**

BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.968/Hyd/2024		
Assessment Year: 2017-18		
Venkat Rama Reddy Puppala, Hyderabad. PAN : AGSPP2174N. (Appellant)	Vs.	The Income Tax Officer, Ward – 13(3), Hyderabad. (Respondent)
Assessee by:		Shri Mohd. Afzal, Advocate.
Revenue by:		Ms. V. Koteswaramma, Sr.DR
Date of hearing:		22.10.2024
Date of pronouncement:		23.10.2024

ORDER

PER LALIET KUMAR, J.M.

The appeal of the assessee for A.Y. 2017-18 arises from the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dt.01.08.2024 invoking proceedings under section 143(3) of the Income Tax Act, 1961 (in short, “the Act”).

2. The grounds raised by the assessee read as under :

“1. 1. The order of the learned Commissioner of Income Tax (Appeals) is against the law, weight of evidence and probabilities of case.

2. The learned Commissioner erred in confirming the addition of Rs.32,45,700/- treated by the Assessing Officer as unexplained income u/s 69A of the IT Act.

3. The learned Commissioner ought to have appreciated that the assessee aged about 83 years could not have earned an amount of Rs.32,45,700/during the period relevant to the assessment year.

4. The learned Commissioner erred in not appreciating the cash flow statement submitted during the Appellate proceedings and further erred in confirming the addition of Rs.32,45,700/- treated by the Assessing Officer as unexplained income u/s 69A of the IT Act.”

3. The brief facts of the case are that assessee, who is an individual, has derived income from salary / pension and filed his return of income for A.Y. 2017-18 electronically on 22.12.2017. The case of the assessee was selected for scrutiny under CASS. Accordingly, notices u/s 143(2) and 142(1) of the Act were issued. In response, assessee submitted his response through ITBA. On verification of the Bank account statements of assessee, Assessing Officer noticed that cash deposits during the FY 2016-17 was Rs.40,45,700/- and asked the assessee to explain the source of the said cash deposits. On verification of the reply given by the assessee, it was observed by the Assessing Officer that the assessee has withdrawals of Rs.8,70,000/- from three banks prior to demonetization and out of said Rs.8,70,000/-, Rs.70,000/- was deducted towards family maintenance and medical expenses. Further, the contention of the assessee that withdrawals made after his retirement from the accumulated cash with him till demonetization period was not accepted by the Assessing Officer. In

view of the above, out of the total cash deposits of Rs.40,45,700/- the sources to the extent of Rs.8,00,000/- was treated as explained and the balance amount of Rs.32,45,700/- was treated as unexplained and brought to tax u/s 69A of the Act and taxed u/s 115BBE of the Act by the Assessing Officer. Thereafter, penalty proceedings u/s 271AAC were initiated separately. Accordingly, the assessment was completed and assessment order u/s 143(3) of the Act was passed by the Assessing Officer on 23.12.2019.

4. Feeling aggrieved with the order of Assessing Officer, assessee filed an appeal before the Id.CIT(A), NFAC, Delhi, who dismissed the appeal of assessee.

5. Before me, the learned AR submitted that the assessee, a pensioner and retired doctor aged 83 years, has been regularly filing his income tax returns, showing pension income and interest on bank deposits. As a senior citizen, the assessee would routinely withdraw cash from his bank accounts for emergency or medical expenses. In addition, his wife receives rental income in cash from a flat in Hyderabad and also receives some amounts from children for their expenditure as gift and over a period of time, all these amounts were accumulated into a substantial sum. The Id.AR further submitted that due to demonetization only, the assessee deposited Rs.40,45,700/- into his various bank accounts. The Id.AR further submitted that, despite the assessee providing all the necessary information, including the source of the deposits, the Assessing Officer and Id.CIT(A) did not properly appreciate the facts and cash flow statements submitted by the assessee and the Id.CIT(A) incorrectly

confirmed the addition of Rs.32,45,700/- made by the Assessing Officer and requested that a reasonable and balance view may be taken considering the age of the assessee and the rental income received by the assessee's wife from the property situated at Hyderabad.

6. Per contra, the ld.DR relied upon the orders of lower authorities and submitted that the orders passed by the lower authorities are reasonable and speaking orders and hence, no interference is required.

7. I have heard the rival contentions of both the parties and perused the material available on record. On perusal of the order of ld.CIT(A), I found that the ld.CIT(A), after analyzing the written submissions provided by the assessee vide page 6 of his order, has examined the cash flow statements submitted by the assessee from April, 1999 to October, 2016 and thereafter, he had come to the conclusion that there was availability of cash only for rupees three lakhs and the ld.CIT(A) also observed that there was a systematic withdrawal of cash for household expenses and the assessee was not able to explain the source of deposit of cash of Rs.32,45,700/- in his bank accounts. The relevant portion of the explanation given by the assessee, which was reproduced in the order of ld.CIT(A) is as under :

“ With reference to the subject cited above, please note that the assessee having PAN: AGSPP2174N has furnished return of income for AY2017-18 in ITR-1 on 22-12-2017 bearing ack No.342289540221217 with ITO Ward 13(1). However, the final assessment order is passed by ITO Ward 13(3) without mentioning in

the order, the approval of file transfer from ITO Ward 13(1). The assessee Dr. Venkat Rama Reddy Puppala, is a retired doctor was working for state government and currently not doing or holding any business or occupation after his retirement. The assessee is resident super senior citizen aged 83 years and his wife is senior citizen. The assessee has two children & are well settled in USA since long time. The assessee is filing his ITR regularly showing pension income and interest on bank deposits and discharged the applicable tax liability. Assessee being super senior citizen, started suffering from multiple age related health issues like heart disease, diabetes, urinary incontinence, prostrate issues etc., Since the assessee children stay at USA, he used to withdraw cash from his joint bank accounts regularly and keep cash for emergency hospital needs and also whenever his children visit to India, they use to gift some amounts for parents expenditure purpose. Apart from all these sources, assessee wife was getting rental income from a flat at Hyderabad in cash, since it is less than taxable income, she was not filing ITRs before AY 2014-15.

Over a period, all these amounts are accumulated necessary for emergency medical purposes since no immediate relative of the assessee is in India to take care of emergency medical needs. With demonetization during the year 2016-17, the assessee has deposited the same cash back into his bank accounts which is apparent from bank accounts.

The assessee case then was selected for limited scrutiny under CASS for cash deposit in the bank accounts. The assessee furnished a thorough and sufficient reply for cash deposit query after demonetization in IT portal and to ITO Ward 13(3) that such cash deposit is not an income for the year and is only an accumulation of cash withdrawals done earlier from his bank account along with summary of cash deposit, withdrawal, income and taxes paid for past few years. Regular cash withdrawals from assessee bank account can be scene, establishing the habitual, consistent behavior of the assessee for emergency medical needs at such old age. The AO erroneously presumed the cash deposit of Rs.32,45,700/- (out of total cash deposit of Rs.40,45,700/-) during demonetization as unexplained money u/s.69A for the Assessment Year 2017-18.

7.1 The observation of the Id.CIT(A), after examining the written submissions provided by the assessee, reproduced hereinabove, and cash flow statements from April, 1999 to October, 2016 at pages 9 to 11 of his order, is to the following effect :

“7.3 Perusal of the cash flow statement reveal that appellant has shown cash opening balance of Rs.3,00,000/- in F.Y.1999-2000. The appellant has not furnished any documentary evidence of such cash balance. Hence, the same cannot be considered. Cash withdrawal from F.Y. 2000-2001 to 2012-13 reveal that they are normal systematic cash withdrawal for house-hold expenses only and therefore there is no scope of any savings and consequent cash on hand. It is further observed that the appellant has incorporated rental income of wife from F.Y.2005-06. Rent of Rs.1,20,000/- has been shown in F.Y.2005-06, rent of Rs.1,44,000/- has been shown from F.Y.2006-07 to 2013-14. Rental income of Rs.1,80,000/- has been shown in F.Y.2014-15 and Rs.2,60,000/- shown in F.Y.2015-16. There is no documentary evidence for this rental income and therefore this source of rental income to explain the cash in hand is found to be without any basis. In F.Y.2015-16 the appellant has claimed to have made cash withdrawals of Rs.50,000/-, Rs.1,50,000/-, Rs.6,30,000/-, Rs.7,00,000/-. The appellant has not furnished documentary evidences in support of the cash withdrawals. Further, the reason for such high cash withdrawal in F.Y.2015-16 has not been explained. To sum up, the summary of cash flow statement from April-1999 to 2016 is nothing but an afterthought. The cash balance worked out by the appellant is nothing but a self made document without any supporting documentary evidences. In view of the above, the explanation of the appellant has no merits.

*7.4 In view of the above facts since, the appellant has not offered any explanation about the source of cash deposits in the bank account, the same has remained unexplained.
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7.5 Based on the facts and legal positions discussed above, despite being provided with multiple opportunities, the appellant has not provided any relevant documentary evidence on merit of the case but submitted cash flow statement from April 1999 to October 2016, copies of hospitalization, hospital bills in the USA, summary of bank credits and debits transactions. However, these documents are not sufficient to substantiate the grounds of appeal. Therefore, it is presumed that the appellant does not have any concrete documents, explanation and evidence with respect to cash deposits made during the demonetization period. Therefore in absence of any concrete documentary evidence I do not find any merit in the grounds of appeal. In view of the above no relief can be granted to the appellant. Accordingly, Ground No. 2 & 3 are dismissed.”

8. Considering the totality of the circumstances, the Id.CIT(A) has partly allowed the appeal of assessee. In the present case, as mentioned above, the assessee provided a reasonable explanation, stating that the funds for his daily needs came from the amounts in his bank accounts from his pension amount, rental income of his wife's flat situated at Hyderabad and amounts given as gift by his children, who happens to be NRIs. It is the case of the assessee that he is a senior citizen and retired government Doctor. Though, the assessee is a retired government Doctor and aged 83 years, in my view, the assessee was required to submit documentary evidence to support his cash withdrawals. The Id.CIT(A) has already granted substantial relief by partly allowing the appeal.

8.1. At the time of arguments, the Id.AR has expressed that balance view is required to be taken considering the age and profession of the assessee, however, after looking into the facts of the case, I found that assessee has not furnished any supporting documentary evidence for receipt of cash for a period of five years prior to the assessment year 2016-17. The cash deposits in the bank account have already been considered by the Id.CIT(A) in granting part relief to the assessee. Though, from the face of it, no indulgence is required at this stage, however, considering the age and profession of the assessee, I am of the view that some more relief is required to be given. As such, I confirm an addition of Rs.20,00,000/- out of Rs.32,45,700/- and delete the remaining amount of Rs.12,45,700/-. Thus, the appeal of the assessee is partly allowed.

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

Order pronounced in the Open Court on 23rd October, 2024.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad, dated 23rd October, 2024.

TYNM/sps

Copy to:

S.No	Addresses
1	Venkat Rama Reddy Puppala, Flat No.302, Jyothi Grooms Apartments, Road No.03, Union Bank Colony, Khairatabad – 500034, Hyderabad, Telangana.
2	The Income Tax Officer, Ward – 13(3), Hyderabad.
3	PrI.CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order