

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.402/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2017-18)

Shri Mohan Bairagani, Hyderabad. PAN:ALXPB5422F	Vs.	Income Tax Officer, Ward-13(1), Hyderabad.
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	Shri Ravi Bharadawaj, C.A.	
राजस्व द्वारा / Revenue by::	Shri S. Mookamkbikeyan, 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 Mohan Bairagani, Hyderabad ("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 19.02.2024 for the A.Y. 2017-18.

2. The assessee has raised the following grounds :

- “1. The Ld CIT(A) is erroneous both on facts and in law.
2. The Ld CIT(A) erred in treating the cash deposited of Rs 20,00,000/- as income of the appellant u/s 69A of the I.T act.
3. The Ld CIT(A) ought to have considered the fact that the cash deposits were out of accumulated savings of the Assessee;
4. The Ld CIT(A) erred in not considering the fact that the bank account cannot be treated as a book of accounts and therefore no addition can be made u/s 69A of the I.T.Act
5. The Ld AO erred in charging interest u/s 234A of Rs.1,86,636/- - 234B of Rs.15,39,747, 234C of Rs.3,260/-.
6. Any other ground that may be urged at the time of hearing;”

3. The brief facts of the case are that the assessee is an employee of Vigilance and Enforcement Department, filed his Return of Income (“ROI”) for A.Y. 2017-18 on 03.11.2017, declaring total income at Rs.7,63,970/-. In the ROI, the assessee had declared income from salary of Rs.5,86,421/-; income from Long Term Capital Gain of Rs.3,52,544/- and claimed a deduction of Rs.1,75,000/- under Chapter VIA of the Income Tax Act, 1961 (“the Act”). The assessee also filed a revised ROI on 02.06.2018 revising his income from salary to Rs.7,95,510/- and the total income to Rs.9,68,050/-.

The case of the assessee was selected for limited scrutiny through CASS to examine cash deposit during demonetisation period. Accordingly, notices u/s.143(2) and 142(1) of the Act were issued to the assessee requiring him to file the ROI and furnish the details regarding sources of cash deposit. As the assessee did not respond to the notices, the Learned Assessing Officer ("Ld. AO") collected information u/s.133(6) of the Act from SBI and came to know that the assessee had deposited cash of Rs.60 lakhs on 13.11.2016. Finally, the Ld. AO completed the assessment u/s.144 of the Act on 26.12.2019 considering the cash deposit of Rs.60 lakhs into bank as unexplained u/s.69 of the Act to be taxed u/s.115BBE of the Act.

4. Aggrieved with the order of Ld. AO, the assessee filed appeal before Ld. CIT(A). Considering the submission of the assessee, the Ld. CIT(A) found that Rs.20 lakhs were also deposited on 06.08.2016 on

account of which no explanation was given by the assessee. Therefore, the Ld. CIT(A) restricted the addition to Rs.20 lakhs and thereby deleted the addition of Rs.40 lakhs.

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 case of the assessee was selected for limited scrutiny to verify only the cash deposit during demonetisation period. The Ld. CIT(A) was satisfied with the submission of the assessee regarding cash deposited during demonetisation period. But he sustained addition of Rs.20 lakhs on account of cash deposited on 6.8.2016, which was not relating to demonetisation period. Therefore, the Ld. AR submitted that the Ld. CIT(A) should have only restricted himself to verify the cash deposited during demonetisation period only and the addition sustained by the Ld. CIT(A) for Rs.20 lakhs which relates to a period beyond

demonetisation period should be deleted. In their alternative submission, the Ld. AR submitted that the assessee is a regular income tax return filer and the cash deposit of Rs.20 lakhs on 6.8.2016 was from his past savings. Therefore the Ld. AR prayed before the bench to delete the addition of Rs.20 lakhs.

6. Per contra, the Learned Department Representative (“Ld. DR”) relying on the order of Ld. CIT(A) submitted that the assessee could not substantiate with evidence the cash deposit of Rs.20 lakhs. Therefore the addition sustained by the Ld. CIT(A) should be upheld.

7. We have heard the rival contentions and also gone through the record in the light of the submissions made on either side. The contention of the Ld. AR was that the case of the assessee was selected for limited scrutiny to verify cash deposit during demonetisation period only and the Ld. CIT(A) should have restricted himself to verify the cash deposited during that period only. In the

assessment order, the Ld. AO based on the limited scrutiny made the addition of Rs. 60,00,000/- in the hands of the assessee on account of the amount deposited by the assessee on 13/11/2016. However, before the Ld. CIT(A), the assessee has explained the source of Rs. 60,00,000/- deposited by the assessee in his bank account. During the course of proceedings before the Tribunal, the Ld. AR drawn our attention to the bank statement of State Bank of India and State Bank of Travancore which are available on record and submitted that the amount of Rs.40,50,000/- was withdrawn from the State Bank of India and Rs.48,00,000/- was withdrawn from State Bank of Travancore on 07/11/2016 and thereafter, made a cash deposit of Rs. 60,00,000/- in the bank account of the assessee out of cash withdrawn from bank on 07/11/2016. Thus, the assessee was having adequate funds in his possession which is sufficient to explain the

deposit of Rs. 60,00,000/- made in the bank account on 13/11/2016. Thus, the assessee has explained the source of the cash deposit made on 13/11/2016 which is from the withdrawal made by the assessee on 07/11/2016. In view of the above, the assessee has properly explained and able to discharge his onus and therefore, no addition can be made in the hands of the assessee. Accordingly, the addition made in the hands of the assessee is hereby deleted.

9. In the result, the appeal of the assessee is 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 Mohan Bairagani, Hon'ble No.179/A, PKR
Nilayam, 5th Floor, A Block, Sri Ram Nagar Colony,
Kondapur, Kondapur-Serilingampally,
Hyderabad-500084
2. ITO, Ward 13(1), Hyderabad.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. Guard file.

BY ORDER,