

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

Before Shri Manjunatha G., Accountant Member
and
Shri K. Narasimha Chary, Judicial Member

आ.अपी.सं / **ITA No.1148/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2017-18)

Murali Nukala Hyderabad [PAN : ABFPN1674F]	Vs.	ACIT, Circle-3(1) Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	Shri Chaitanya Kumar, AR	
राजस्व द्वारा / Revenue by::	Shri Reema Yadav, DR	
सुनवाई की तारीख / Date of hearing:	09/12/2024	
घोषणा की तारीख / Date of Pronouncement:	09/12/2024	

आदेश / ORDER

PER. MANJUNATHA G., A.M:

This appeal filed by the assessee is directed against the order dated 22/12/2023 of the learned Commissioner of Income Tax (Appeals) [Learned CIT(A)], National Faceless Appeal Centre (NFAC), Delhi, relating to A.Y.2017-18 on the following grounds :

- 1. The order of the learned commissioner of Income-tax (Appeals) is erroneous on facts and in law, without giving any proper opportunity to the appellant.*
- 2. The learned Commissioner of Income-tax (Appeals) erred in passing an order Ex-Parte without giving any proper*

opportunity to the appellant. The order of the CIT(Appeals) is ex-parte, illegal and arbitrary, and violative of the principles of natural justice.

3. *The order of the learned Commissioner of Income-tax (Appeals) is arbitrary, illegal, and contrary to the provisions of the law, in confirming the order of the assessing officer in treating an amount of Rs 18,50,334/- as income of the appellant under 69A of the I.T act, without giving any further opportunity.*

4. *The very approach of the learned Commissioner of Income-tax (Appeals) /NFEAC in passing an order u/s250 ex-parte without giving any proper opportunity to confirm the action of the Assessing officer in determining the total income at 42,66,395/- without giving any proper opportunity, is illegal arbitrary, without assigning any valid reasons, and is perverse, highhanded is contrary to the provisions law, therefore the order passed by the Learned Commissioner of Income Tax(appeals)NFAC is illegal ex-facie and violative of principals of natural justice.*

5. *The learned Commissioner of Income-tax (Appeals) erred in confirming the assessing officer's action applying the provisions u/s 69A of the I.T. Act.*

6. *The learned Commissioner of Income-tax (Appeals) erred in confirming the assessing officer's action applying the provisions u/s 115 BBE of the I.T. Act.*

7. *The learned Commissioner of Income-tax (Appeals) erred in confirming the assessing officer's action in charging interest u/s 234A Ra.1,46,008/- and 234B of Rs.5,79,204/-.*

8. *Any other ground / grounds may be urged at the time of hearing.*

2. At the outset, we find that there is a delay of 4 days in filing the appeal by the assessee before the Tribunal. The appellant has filed a petition for condonation of delay and also explained the reasons for the delay in filing the appeal. The

learned Counsel for the assessee, referring to petition filed by the appellant, submitted that the appellant tried to upload the duly signed documents of Form 36 and other necessary attachments on the ITAT portal before the due date of 31.10.2024, which could not be done due to technical snag with the ITAT portal undergoing maintenance. However, the said delay is neither intentional nor wanton of any undue benefit, but purely beyond the control of the assessee. Therefore, requested to condone the delay in filing the appeal for which the Ld.DR has not raised any objection.

3. We have heard both the parties and considered relevant reasons given by the appellant for the delay in filing the appeal before the Tribunal. After hearing both the sides, we find that the reasons given by the appellant for not filing the appeal on or before the due date prescribed under law, comes under reasonable cause as provided under the Act. Thus, we condone the delay in filing the appeal and admit the appeal for adjudication.

4. The brief facts of the case are that the assessee is an individual, deriving income from business and profession and income from other sources, filed his return of income for the A.Y.2017-18 on 18.09.2018, declaring total income of Rs.24,06,060/-. The case was selected for scrutiny to verify large cash deposits in the bank account. During the course of assessment proceedings, as per the information available in the data base, the Assessing Officer noticed that the assessee had deposited an amount of Rs.35,05,000/- in the bank account

held by him with Karur Vysya Bank (KVB). The Assessing Officer called upon the assessee to explain the sources for the cash deposit. In response, the assessee submitted that the rent received from the properties has been credited in the books of M/s Nookala Omprakash Murali, a partnership firm, in which the appellant is a partner. The amount credited to the firm's account has been drawn and the same has been deposited in the KVB SB account. The Assessing Officer on the basis of the information submitted by the assessee observed that the appellant has reported gross rental value of Rs.20,54,666/-, whereas, the total cash deposited in the bank account was at Rs.35,05,000/-, therefore, the difference of Rs.14,50,334/- has not been explained with known sources of income. The Assessing Officer, further noticed from the bank account statement of KVB that the assessee had deposited Rs.4,00,000/- on 06.08.2016, however, there is no entry in the cash book submitted by the assessee. Therefore, the cash deposit of Rs.4,00,000/- has been treated as unexplained. Thus, by taking into account, the total unexplained cash deposit, Rs.18,50,334/- has been treated as unexplained cash credit and added back to the total income.

5. The assessee filed appeal before the CIT(A). The CIT(A), for the reasons stated in their appellate order, upheld the addition and dismissed the appeal.

6. Aggrieved by the Ld.CIT(A) order, the assessee is now in appeal before the Tribunal.

7. The learned Counsel for the assessee, referring to ledger account of the appellant in the books of M/s Nookala Omprakash Murali for the F.Y.2016-17, submitted that the rental income of the appellant has been credited in the bank account of partnership firm. The appellant has drawn the amount from the partnership firm and the same has been deposited in KVB account. The learned Counsel for the assessee has filed relevant ITRs filed by the assessee. The learned Counsel for the assessee further, referring to addition of Rs.4,00,000/- towards cash deposited on 06.08.2016, submitted that the appellant has drawn Rs.4,00,000/- from M/s Nookala Omprakash Murali and the same has been deposited into the account of the appellant on 15.08.2016. Since, there is difference between the dates of cash deposit and debit entry in the partnership account, the Assessing Officer has not considered the explanation. Otherwise, Rs.4,00,000/- has been already included in the total addition considered by the Assessing Officer at Rs.35,05,000/- and therefore, further addition of Rs.4,00,000/- amounts to double addition, which is not correct. Therefore, he submitted that the additions made by the Assessing Officer should be deleted.

8. The Ld.DR, on the other hand, submitted that the assessee could not explain as to how and why the rental income of an individual can be credited in the bank account of a partnership firm. Therefore, subsequent explanation of the assessee along with ledger account of the firm is only an afterthought to circumvent the additions towards cash deposited into SB account. Therefore, the Ld.CIT(A) has rightly

rejected the submissions made by the assessee and sustained the addition. She, therefore, submitted that the additions made by the Assessing Officer should be sustained.

9. We have heard both the parties, perused the material on record and gone through the orders of the authorities below. Admittedly, the assessee is in receipt of gross rental income of Rs.20,54,666/- from a property. The appellant had also received interest income of Rs.9,52,900/- from M/s Rajdeep Jewellers. If we consider the gross income reported by the assessee for the F.Y.2016-17, relevant to A.Y.2017-18, the appellant has received Rs.30,07,566/- as income from different sources. Although, there is no justification for crediting the rental income in the bank account of partnership firm, but the availability of income from different sources cannot be ruled out. Therefore, if we consider the rental receipt of Rs.20,54,666/-, the appellant needs to explain the sources for balance cash deposit of Rs.14,50,334/- only. However, the Assessing Officer made addition of Rs.18,50,334/- by adding further sum of Rs.4,00,000/- deposited on 06.08.2016 in KVB account, even though the said sum of Rs.4,00,000/- is already a part of total cash deposit of Rs.35,05,000/- considered by the Assessing Officer. Therefore, if we exclude the sum of Rs.4,00,000/- from the additions made by the Assessing Officer, then the assessee needs to explain the balance cash deposit of Rs.14,50,334/- only. In respect of balance cash deposit, the assessee claimed that it has received interest income of Rs.9,52,900/- from M/s Rajdeep Jewellers and the same has been deposited into the bank account held with KVB account. We find merit in the

arguments of the assessee, because the Assessing Officer has not denied the sources of income declared under the head income from other sources, interest from M/s Rajdeep Jewellers. If we consider the income declared from income from other sources, the assessee is having sources for cash deposit to the extent of Rs.9,52,900/-. If we exclude, Rs.9,52,900/- from balance cash deposit of Rs.14,50,334/-, then the assessee needs to explain further cash deposit of Rs.4,97,434/-, for which the assessee is unable to furnish any explanation along with relevant evidences. Therefore, we are of the considered view that out of additions made by the Assessing Officer towards cash deposit of Rs.18,50,334/-, the assessee could explain the sources for cash deposit of Rs.13,52,900/-. Therefore, we direct the Assessing Officer to delete the additions made towards cash deposit to the extent of Rs.13,52,900/-. In so far as the balance cash deposit of Rs.4,97,434/-, the assessee could not file any evidences and therefore, we direct the Assessing Officer to sustain the addition of Rs.4,97,434/- towards cash deposited into the bank.

10. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the Open Court on 9th December, 2024.

Sd/-

Sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

(MANJUNATHA G.)
ACCOUNTANT MEMBER

Hyderabad, dated 9th December, 2024

L.Rama, SPS

Copy to:

S.No	Addresses
1	Shri Murali Nukala, E101, Aditya Empress Towers, Shaikpet Nala, Tolichowki, Golconda, Hyderabad
2	The Assistant Commissioner of Income Tax, Circle-3(1), Hyderabad
3	The Pr. CIT, Hyderabad
4	The DR, ITAT Hyderabad Benches
5	Guard File

By Order