

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

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

आ.अपी.सं / **ITA No.1173/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2017-18)

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| Chilakala Govinda Sekhar Mylavaram [PAN : ARVPG0469M] (Appellant) | Vs. | Income Tax Officer Ward-1 Proddutur (Respondent) |
| निर्धारिती द्वारा / Assessee by: | Ms.S.Sandhya, AR | |
| राजस्व द्वारा / Revenue by: | Ms.Reema Yadav, DR | |
| सुनवाई की तारीख / Date of hearing: | 12 / 12 / 2024 | |
| घोषणा की तारीख / Date of Pronouncement: | 12 / 12 / 2024 | |

आदेश / ORDER

PER. MANJUNATHA G., A.M:

This appeal filed by the assessee is directed against the order dated 17.10.2023 of the learned Commissioner of Income Tax (Appeals) [Ld.CIT(A)], National Faceless Appeal Centre, Delhi, relating to A.Y.2017-18.

2. At the outset, we find that there is a delay of 331 days in the appeal filed by the assessee before the Tribunal, for which a petition for condonation of delay along with an affidavit, explaining the reasons for the delay in filing the appeal has been

filed. The learned Counsel for the assessee, referring to the petition filed by the assessee, submitted that the appellant is an agriculturist and not well educated and therefore, has no knowledge of income tax matters and any appeal proceedings. The appellant has given the case to a consultant to handle the matters before the appellate authorities and the appellant requested his friend, Kommaddi Venkata Narasimhulu to provide his credentials for operating his online proceedings through income tax portal. The consultant used appellant's friend, Shri Kommaddi Venkata Narsimhulu's credentials and filed the appeal. The Ld.CIT(A) passed the order and sent the appellate order to the email id given in Form 35, which has not been noticed by his friend. Further, the appellant noticed that the appellate order was passed by the Ld.CIT(A), in the second week of November 2024 and he had taken steps to file the appeal before the Tribunal, which caused delay of 331 days, however, the said delay is neither intentional nor wanton of any undue benefit, but beyond the control of the appellant. Therefore, in the interest of justice, the delay in filing the appeal should be condoned.

3. The Ld.DR on the other hand, opposing the petition filed by the assessee submitted that the reasons given by the assessee are vague in nature and does not come under reasonable cause for condoning huge delay of 331 days in filing the appeal. Therefore, the delay in filing the appeal should not be condoned.

4. We have heard both the parties and considered the relevant reasons given by the appellant for the delay in filing the appeal in the affidavit filed in support of his petition and after considering the reasons given by the appellant, we find that the appellant being an agriculturist, does not know the proceedings before the appellate authorities and he was not aware of the appellate order passed by the Ld.CIT(A). We, further note that it is quite possible in the era of e-filing system, many people miss out various communications issued by the authorities, due to ignorance or non-availability of relevant credentials to oversee the ITBA portal to check various proceedings pending before the authorities. Therefore, in our considered view, the appellant, being an agriculturist, not well educated, is prone to miss out the communications issued by the Ld.CIT(A). Thus, by taking into account, the facts and circumstances of the case and also the reasons given by the appellant, we condone the delay in filing of the appeal before the Tribunal and admit the appeal filed by the assessee.

5. The brief facts of the case are that the appellant is an individual and non-filer for the A.Y.2017-18. As per the information available in AIMS Module of ITBA, the Assessing Officer noticed that the assessee has deposited cash of Rs.17,70,355/- into the bank account. Accordingly, notice u/s 142(1) of the Income tax Act, 1961 ("the Act") was issued, calling for income tax return for the A.Y. 2017-18. In response to the notice, the assessee has filed his return of income on 04.08.2018, admitting total income of Rs.2,48,000/- and agriculture income of Rs.1,15,000/-. The case was selected for

scrutiny and during the course of assessment proceedings, the Assessing Officer noticed that the assessee has made cash deposit of Rs.17,70,355/- in the bank account held with State Bank of India, Jammalamadugu. The Assessing Officer obtained relevant bank account statements from the bank u/s 133(6) of the Act. The Assessing Officer called upon the assessee to explain the sources of income, in response, the assessee submitted that he is an agriculturist owns 7.44 acres of agricultural land and derives agricultural income. The assessee further submitted that he has borrowed gold loan from the bank for the purpose of agricultural operations and the available cash has been redeposited into the bank account during the demonetization period. The Assessing Officer, after considering the relevant submissions of the assessee and also taking note of agricultural land holding, accepted the explanation of the assessee, in respect of source from agricultural operations and allowed credit to the extent of Rs.8,00,000/- cash deposited into the bank account, out of agricultural income and the balance cash deposit of Rs.9,70,355/- has been treated as unexplained income u/s 69A of the Act, on the ground that the appellant could not explain the nature and source of cash deposited into the bank account during the demonetization period.

6. Being aggrieved by the assessment order, the assessee preferred an appeal before the CIT(A). Before the Ld.CIT(A), the assessee neither appeared nor filed any details, which is evident from para 5 of the order of the Ld.CIT(A), where, three dates of hearing were provided to the assessee, but no compliance. Therefore, the Ld.CIT(A) by following certain judicial precedents

and also taking note of relevant facts narrated by the Assessing Officer in their order, sustained the additions made towards cash deposit and dismissed the appeal filed by the assessee.

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

8. The learned Counsel for the assessee submitted that the Ld.CIT(A) erred in sustaining the addition of Rs.9,70,355/- towards cash deposited in the bank account, even though the assessee has explained the source for cash deposited out of gold loan availed from the bank in the month of April 2016 and the same has been redeposited into bank account for closure of gold loan in the month of November, 2016. In this regard, he has furnished relevant ledger extracts availed from State Bank of India and corresponding bank statements. Therefore, submitted that the additions made by the Assessing Officer and sustained by the Ld.CIT(A) should be deleted.

9. The Ld.DR on the other hand, supporting the order of the Ld.CIT(A) submitted that the appellant could not explain the source for balance cash deposit of Rs.9,70,355/-. Although the appellant claimed to have availed gold loan and the same is available to explain the source for the cash deposited, but the purpose of availing gold loan and keeping the cash in hand is not explained. The Ld.CIT(A), after considering relevant facts has rightly sustained the additions made by the Assessing Officer and their order should be upheld.

10. We have heard both the parties, perused the material on record and gone through the orders of the authorities below. There is no dispute with regard to the fact that the appellant is an agriculturist, derives agricultural income by carrying out agricultural operations in 7.44 acres of land. In fact, the Assessing Officer never disputed the fact that the appellant is an agriculturist and derives agricultural income. Further, the Assessing Officer had also allowed relief towards cash deposit to the extent of Rs. 8,00,000/- out of agricultural income earned by the assessee. Therefore, the arguments of the assessee towards cash deposited needs to be examined in light of the nature of income earned by the assessee and the sources explained for the said cash deposit. It is an admitted fact that the assessee does not have any income, except agricultural income. Even assuming for a moment, the appellant could not explain the sources for balance cash deposit of Rs.9,70,355/-, as claimed by the Assessing Officer, but because the appellant is an agriculturist and the source of income is out of agricultural operations and the same is exempt from tax, the question of making additions towards balance cash deposited does not arise. Further, the appellant had also explained the cash deposited out of gold loan availed from State Bank of India and as per the details furnished by the assessee, the appellant has availed three gold loans in the month of April 2016 and May 2016 for Rs.16,70,000/- and the same has been credited to his savings bank account held with State Bank of India. The appellant has drawn cash from the bank out of gold loan proceeds, which is evident from the statement of the bank account held with SBI. Although the appellant could not

convincingly explain the purpose of availing the gold loans, but the fact remains that the availability of sources in the form of gold loans cannot be disregarded, unless the Assessing Officer makes out a case that the gold loan availed by the appellant has been spent for some other purposes. Since the Assessing Officer has not made out a case for non-availability of the sources out of the gold loan, in our considered view, the explanation of the assessee towards cash deposited out of gold loan needs to be accepted to some extent. Therefore, considering the facts and circumstances of the case and also the evidences filed by the assessee, we deem it appropriate to allow relief to the appellant to the extent of Rs.6,00,000/- towards cash deposited into bank account, out of gold loan availed by the appellant from the very same bank. In other words, we direct the Assessing Officer to delete Rs.6,00,000/- out of Rs.9,70,355/- and the balance amount of Rs.3,70,555/- is hereby confirmed.

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

Order pronounced in the Open Court on 12th December, 2024.

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| Sd/- (K. NARASIMHA CHARY) JUDICIAL MEMBER | Sd/- (MANJUNATHA G.) ACCOUNTANT MEMBER |
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Hyderabad,
Dated 12th December, 2024
L.Rama, SPS

Copy to:

| S.No | Addresses |
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| 1 | Shri Chilakala Govinda Sekhar, 3-71, Dhannawada Village, Mylavaram Mandal, Vaddirala |
| 2 | The Income Tax Officer, Ward-1, Proddutur |
| 3 | The Pr.CIT, Kurnool |
| 4 | The DR, ITAT Hyderabad Benches |
| 5 | Guard File |

By Order