

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.1075/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2017-18)

Ramesh Keshwatkar Hyderabad [PAN :ADOPK9626P]	Vs.	Income Tax Officer Ward-13(1) Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:		
राजस्व द्वारा / Revenue by:		
सुनवाई की तारीख / Date of hearing:		
घोषणा की तारीख / Date of Pronouncement:		

आदेश / ORDER

PER. MANJUNATHA G., A.M:

This appeal filed by the assessee is directed against the order dated 28.08.2024 of the learned Commissioner of Income Tax (Appeals) [Ld. CIT(A)], Mumbai, relating to A.Y.2017-18 on the following grounds :

- 1. In the facts and circumstances of the case, the addition of Rs.6,18,000/- is not justifiable.*
- 2. In the facts and circumstances of the case, the Ld.CIT(A) ought to have closed the proceedings against the deceased person especially when the fact of death of the assessee was brought to the notice of Ld.CIT during the pendency of appeal proceedings.*

3. *In the facts and circumstances of the case, the Ld.CIT(A) ought not to have passed an order in the name of a deceased person.*

4. *In the facts and circumstances of the case, the Ld.CIT(A) ought to have seen that the assessee had explained the sources for Rs.6,18,000/-.*

5. *The appellant may be permitted amend, alter, delete or add any ground at the time of hearing with the leave of the Hon'ble Bench.*

2. The brief facts of the case are that the assessee is an individual, filed his return of income for the A.Y.2017-18 on 24.07.2017, admitting total income of Rs.4,19,160/-. The case was selected for scrutiny, to verify the sources for cash deposit during the demonetization period. During the course of assessment proceedings, as per the information available with the Assessing Officer, it was noticed that the assessee has made cash deposit of Rs.10,18,500/- in various bank accounts during the demonetization period. The Assessing Officer called upon the assessee to file relevant evidences, to prove the sources for cash deposited in the bank accounts. In response, the assessee submitted that he was working with DRDO, a Govt. of India organization and receives pension and interest income. He had also received retirement benefits from his employment. Out of his income, he had periodically withdrawn cash from the bank account for various purposes. The unutilized cash balance available with the appellant has been deposited in the bank account during the demonetization period. The Assessing Officer, after considering the relevant submissions of the assessee, also taking note of cash deposited into bank account and also taking note of the fact that the appellant is a

pensioner, allowed source for the cash deposited to the extent of Rs.2,50,000/- out of his known sources of income like pension and the balance amount of the cash deposit of Rs.7,68,500/- is treated as unexplained money u/s 69A of the Income tax Act, 1961 ("the Act").

3. Being aggrieved by the assessment order, the assessee preferred an appeal before the CIT(A). Before the Ld.CIT(A), the assessee reiterated his arguments taken in support for sources for the cash deposit and filed relevant evidences including cash flow statement to explain availability of cash in hand. The Ld.CIT(A) after relying on certain judicial precedents, allowed further relief of Rs.1,50,000/- towards the cash deposit by considering the status of the appellant and income derived from the pension and the balance amount of cash deposit of Rs.6,18,000/- has been confirmed.

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

5. The Ld.Counsel for the assessee, referring to various bank statements of the appellant and his wife, submitted that the appellant derives income from pension and interest income. Further out of his retirement benefits and out of pension income and other sources, he had periodically withdrawn cash from the bank account for various purposes. The unutilized amount of cash has been deposited into bank account, since the announcement of demonetization period. The assessee has filed cash flow statement and also filed an affidavit in support of their contention, stating that except pension income and

interest income, they do not have any other income, which can be treated as unexplained. Therefore, he submitted that the additions made by the Assessing Officer and confirmed by the Ld.CIT(A) should be deleted.

6. The Ld.DR on the other hand, supporting the order of the Ld.CIT(A) submitted that by considering the status of the appellant and income derived from pension and other sources, the Ld.CIT(A) has allowed substantial relief towards cash deposited into the bank account. Further, the appellant could not explain the sources for the balance cash deposit with known sources of income, therefore, the findings recorded by the Ld.CIT(A) so sustain the additions towards cash deposit should be upheld.

7. We have heard both the parties, perused the material on record and gone through the orders of the authorities. There is no dispute with regard to the fact that the appellant was retired from DRDO, Govt.of India undertaking and received pension from his employment. In fact, the Assessing Officer accepted the fact that the appellant derived income only from pension and other sources, which is evident from the acceptance of cash balance available for cash deposit. The Ld.CIT(A) also accepted the contentions of the assessee and also allowed further relief of Rs.1,50,000/- towards sources for cash deposited from pension and income from other sources. However, confirmed the balance amount of Rs.6,18,500/- on the ground that the appellant could not explain the sources for cash deposited with known sources of income. We find that the appellant does not have any income

except pension income and income from other sources and his income has been credited into his bank account. We further note that the appellant had periodically withdrawn cash from bank account and in this regard it is evident from the cash flow statement, the total cash withdrawals for F.Y.2015-16 and 2016-17 was at Rs.9,92,495/-. If we consider the cash withdrawals from the bank account and the size of the family, it is quite evident that the appellant may not have spent the entire amount of cash withdrawn from his bank account for personal expenses. Since the appellant does not have any other income, except pension and interest income and these are withdrawals from the very same bank account, in our considered view, the explanation of the assessee with regard to sources for cash deposit out of withdrawal from the very same bank account should be accepted, unless, the Assessing Officer makes out a case that the cash withdrawn from the bank account has been spent for some other purposes. Since the Assessing Officer could not make out a case for non-availability of cash in hand, in our considered view, the explanation of the assessee with regard to the balance amount of Rs.6,18,000/- needs to be accepted. Thus, we set aside the order of the Ld.CIT(A) and direct the Assessing Officer to delete the additions sustained by the Ld.CIT(A) to the extent of Rs.6,18,000/- towards cash deposited into bank account u/s 69A of the Act.

8. In the result, appeal filed by the assessee is allowed.

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

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
1	Shri Ramesh Keshwatkar, 1-8-MIG, B-36, F-7, Bagh Lingampally, Hyderabad
2	The Income Tax Officer, Ward-13(1), Hyderabad
3	The Pr.CIT, Hyderabad
4	The DR, ITAT Hyderabad Benches
5	Guard File

By Order