

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISA KHAPATNAM "SMC" BENCH, VISA KHAPATNAM**

(HYBRID HEARING)

**श्री विजय पाल राव, उपाध्यक्ष, एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI VIJAY PAL RAO, HON'BLE VICE PRESIDENT**

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

**आयकर अपीलसं./I.T.A.No.67/VIZ/2024
(निर्धारण वर्ष/ Assessment Year: 2017-18)**

Sudersan Gupta Shriram Kollipara D.No. 30-22-76/5C Andhra Bank Upstairs Kotha Vanthena Cross Road Sitrapuram, Vijayawada – 520004 Andhra Pradesh [PAN: AUKPK7377E]	v.	Income Tax Officer – Ward – 2(1) Vijayawada
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri G.V.N. Hari
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	07.01.2025
घोषणा की तारीख/Date of Pronouncement	:	28.01.2025

आदेश /O R D E R

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal is filed by the assessee against order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre, Delhi [hereinafter in short "Ld.CIT(A)"] vide DIN & Order No. ITBA/NFAC/S/250/2023-24/1059094792(1) dated 27.12.2023 for the

A.Y.2017-18 arising out of order passed under section 144of the Income Tax Act, 1961 (in short ‘Act’) dated 25.11.2019.

2. Briefly stated facts of the case are, that on verification of the data relating to “cash deposits during the demonetization period” available in AIMS module of ITBA, it was noticed that assessee has deposited cash during the demonetization period. Subsequently, notice under section 142(1) was issued on 09.03.2018 and served on the assessee on 17.03.2018 for filing of return of income pertaining to A.Y. 2017-18. Assessee filed return of income on 30.05.2019 admitting a total income of Rs. 27,090/-. Since the return was filed beyond the date of 31.03.2018 it was considered as invalid return. Subsequently, another notice under section 142(1) was issued and duly served on the assessee. Thereafter, show-cause notice was issued to the assessee requesting to file the explanation. Ld. AO also issued notice under section 133(6) of the Act to Federal Bank calling for the bank statement of the assessee. On perusal of the bank statement, it was noticed that the assessee has deposited cash aggregating to Rs.10,00,000/- as follows: -

Name of the Bank	Account No.	Date of Cash Deposit	Amount (Rs.)
Federal Bank	11524100000252	11.11.2016	5,00,000
Federal Bank	11524100000252	18.11.2016	5,00,000
		Total	10,00,000

3. In response, assessee submitted that, assessee has earlier withdrawn cash as follows: -

Name of the Bank	Account No.	Date of Cash withdrawal	Amount (Rs.)
Federal Bank	11524100000252	31.03.2016	6,00,000
Federal Bank	11524100000252	02.04.2016	5,00,000
		Total	11,00,000

4. Assessee claimed that these withdrawals was held by her mother for the purchase of property in Bangalore and subsequent to announcement of demonetization these were redeposited on 11.11.2016 and 18.11.2016 @Rs.5,00,000/- on each date. Ld. AO observing that no person could keep such a huge amount as cash on hand for almost eight months and in absence of any cogent evidence made addition of Rs. 10,00,000/- under section 69A of the Act.

5. Aggrieved by the order of the Ld. AO, assessee filed an appeal before Ld.CIT(A). Considering the similar submissions made by the assessee, Ld.CIT(A) being not satisfied, dismissed the appeal of the assessee.

6. On being aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising following grounds of appeal: -

“1. That under the facts and circumstances of the case the orders passed u/s 144 of the IT Act dt: 25/11/2019 passed by the Income Tax Officer Ward 2(1) Vijayawada and upheld by the Ld.CIT(A) NFAC vide orders u/s 250 of the IT Act dt: 27/12/2023 is contrary to the facts of the case and provisions of law.

2. The Ld. CIT(A) NFAC erred on facts and in law in confirming the additions made by the Assessing Officer (ITO Ward 2(1)Vijayawada) of cash deposits in bank u/s.69A of Rs.10,00,000/-

3. The Ld. CIT(A) incorrectly upheld the addition of Rs. 10,00,000/- based on the AO's erroneous claim that no person would keep such a huge amount as cash in hand for nearly 8 months and further incorrectly held that the assessee has frequently deposited as well as withdrawn cash from his bank account, which is contrary to facts.”

7. Ground No. 1 is general in nature and needs no adjudication.

8. Ground Nos. 2 & 3 pertains to addition of Rs. 10,00,000/- under section 69A of the Act. On this issue, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that assessee is an NRI having the bank account with Federal Bank which is operated by the mother of the assessee. The assessee has requested the mother of the assessee to withdraw an amount of Rs. 6,00,000/- on 31.03.2016 and Rs.5,00,000/- on 02.04.2016, for the purchase of property in Bangalore. Ld.AR also submitted that mother of the assessee holding the cash partly for the purpose of any medical emergency for the father of the assessee. Since the proposal to acquire the property in Bangalore could not materialise and in the meantime due to announcement of demonetization of the currency, assessee has redeposited the same into the bank account of the assessee. He therefore pleaded that the source of cash deposits has been properly explained and hence pleaded to allow the same and delete the addition made by the Revenue Authorities.

9. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] fully relied on the orders of the Ld. AO and stated that assessee has held the cash for the period more than eight months and hence could not be considered as the source of deposit during the demonetization period. She pleaded that order of the Ld. CIT(A) be upheld.

10. We have heard both the sides and perused the material available on record. It is an admitted fact that the assessee has made cash deposits during the demonetization period as follows: -

Name of the Bank	Account No.	Date of Cash Deposit	Amount (Rs.)
Federal Bank	11524100000252	11.11.2016	5,00,000
Federal Bank	11524100000252	18.11.2016	5,00,000
		Total	10,00,000

11. Ld.AR explained the source of above cash deposits arising out of the cash withdrawals as follows: -

Name of the Bank	Account No.	Date of Cash withdrawal	Amount (Rs.)
Federal Bank	11524100000252	31.03.2016	6,00,000
Federal Bank	11524100000252	02.04.2016	5,00,000
		Total	11,00,000

12. The reason attributed by the Ld.AR for holding such huge cash for a period of more than eight months was to identify the property in Bangalore and for the purpose of any medical emergency for the father of the assessee who was underwent “BypassSurgery”. It is also found that cash has been withdrawn by the assessee from his own bank account and deposited the same into the same bank account. In such circumstances it can be said that fact of withdrawal of cash was not disputed by the revenue. The assessee from the assessment until its appeal before us has been consistently claiming that the amount was withdrawn for purchase of some property and consequent to announcement of demonetization amount was again redeposited into bank account by the

assessee. However, no documentary evidences have been produced by the assessee to substantiate the same. Ld.AR also not clearly demonstrated with evidences that the withdrawal by the assessee is for the purpose of buying adjacent vacant site in Bangalore. This Bench has consistently taken a view that in the absence of any cogent evidences establishing the purpose of holding of the same for a longer period, only the first deposit into the bank account consequent to announcement of demonetization shall be allowed. We are therefore inclined to allow an amount of Rs. 5,00,000/- deposited on 11.11.2016, thereby confirming the addition of balance amount of Rs.5,00,000/- made by the Assessing Officer. Thus, grounds raised by the assessee is partly allowed.

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

Order pronounced in the open court on 28th January, 2025.

Sd/-
(विजय पाल राव)
(VIJAY PAL RAO)
उपाध्यक्ष/VICE PRESIDENT
Dated: 28.01.2025
Giridhar, Sr.PS

Sd/-
(एस बालाकृष्णन)
(S. BALAKRISHNAN)
लेखासदस्य/ACCOUNTANT MEMBER

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Sudersan Gupta Shriram Kollipara**
D.No. 30-22-76/5C
Andhra Bank Upstairs
Kotha Vanthena Cross Road
Sitrapuram, Vijayawada – 520004
Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer – Ward – 2(1)**
Vijayawada
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

//True Copy//

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam