

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM BENCH**

BEFORE

**SHRI LALIET KUMAR, JUDICIAL MEMBER
AND
SHRI BALAKRISHNAN. S, ACCOUNTANT MEMBER**

ITA No.353/VIZ/2024		
Assessment Year: 2015-16		
Venkata Suryanarayana Viswanadham, Vizianagaram. PAN : ADNPV5136A (Appellant)	Vs.	The Income Tax Officer, Ward – 1, Vizayanagaram. (Respondent)
Assessee by:		Shri T. Chaitanya Kumar (HYBRID)
Revenue by:		Ms. K. Sandhya Rani, Sr.DR.
Date of hearing:		20.01.2025
Date of pronouncement:		22.01.2025

ORDER

PER LALIET KUMAR, J.M.

This appeal is filed by the assessee, feeling aggrieved by the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 09.07.2024 for the A.Y. 2015-16.

2. The grounds raised by the assessee read as under :

“1. The learned Commissioner of Income-tax (Appeals) NFAC order is erroneous in facts and law.

2. The learned Commissioner of Income-tax (Appeals) NFAC erred in upholding the notice issued by the Jurisdictional Assessing Officer (JAO) under Section 148 dated 03-04-2022. The notice was issued beyond the permissible time limit of three years from the end of the relevant assessment year as prescribed under Section 149(1)(b) of the Income Tax Act, 1961, as amended by the Finance Act, 2021. The amount of income alleged to have escaped assessment, Rs. 17,50,000/-, is below the threshold limit of Rs. 50,00,000/- specified in the Act. Hence, the proceedings initiated are barred by limitation and bad in law.

3. The CIT(A) failed to consider that the notice issued by the Jurisdictional Assessing Officer (JAO) is invalid, as the assessment proceedings should have been conducted under the Faceless Assessment Scheme as per the CBDT's notification dated 29-04-2022. Any proceedings initiated after this notification by a Jurisdictional Officer are null and void.

4. The CIT(A) overlooked the binding precedent set by the Telangana High Court in the case of Makala Ravindra Reddy (WP No. 25903/2022). The judgment categorically held that the notice u/s 148 initiated by jurisdictional officers post the implementation of the Faceless Assessment Scheme, without proper authority, is null and void. This precedent directly applies to the present case. Therefore the consequence order passed by the assessing officer is null and void

5. The CIT(A) erred in confirming the addition of Rs. 17,50,000/- as unexplained money under Section 69A of the Act. Without appreciating the appellant submissions.

6. The very approach of the learned Commissioner of Income- tax (Appeals) / NFEAC in passing an order u/s 250 of the Income tax Act without properly considering the facts and circumstances of the case, and the detailed submissions and evidence provided by the assessee to confirm the action of the Assessing officer in determining the total income at 21,13,738/- without appreciating the appellant submissions, is illegal arbitrary 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.

7. The CIT (Appeals) erred in upholding the levy of interest under sections 234A, 234B, and 234C of the Act.”

3. The brief facts of the case are that assessee had not filed any return of income u/s 139 of the Act. Consequently, a notice under Section 148A(d) was issued on 02.04.2022, followed by a notice under Section 148 on 03.04.2022. In response, the assessee declared an income of ₹3,27,470/-. During the assessment, the assessee claimed to have deposited ₹17,50,000/- in FY 2014-15 from accumulated savings, later converted into fixed deposits, but failed to provide documentary evidence or bank statements. The Assessing Officer found the explanation unsatisfactory and treated the amount as unexplained money under Section 69A read with Section 115BBE, adding it to the total income. Additionally, the AO noted interest income of ₹57,530/-, out of which ₹36,268/- (not previously declared) was also added. Accordingly, the Assessing Officer completed the assessment under Section 143(3) read with Section 144B, with a total assessed income of ₹21,13,738/- and passed assessment order u/s 147 r.w.s 144B of the Act on 29.01.2024.

3.1 Aggrieved with such assessment order, the assessee has filed the appeal, before the LD.CIT(A), who dismissed the appeal of the assessee.

3.2. Aggrieved with the order of LD.CIT(A), the assessee is now in appeal before us.

4. Before us, the ld.AR submitted that the source of the cash deposits of Rs.17,50,000/- were from the accumulated savings of the assessee and also from the amounts received from his daughters and sons-in-law over time. The ld.AR further submitted that initially the assessee intended to use these funds to purchase a house but later has not found a suitable property and as such, deposited the funds in fixed deposits to earn interest. The ld.AR further submitted that assessee being a retired government employee, had saved these amounts over several years and that he has no intention to evade taxes.

5. The ld.AR contended that the absence of corroborative evidence should not be the sole basis for rejecting the appellant's explanation, as a significant portion of the funds can be reasonably considered legitimate based on the circumstantial evidence provided by the assessee. The ld.AR further submitted that the assessee had consistently explained the sources of the deposits, including accumulated savings, financial assistance from his family, and retirement proceeds, which align with his financial background and circumstances. The ld.AR further submitted that the explanation given by the assessee though not fully supported by documentary evidence, but reflects a genuine and bona fide intention without any attempt to conceal income.

6. On the other hand, the Ld.DR submitted that assessee's statements during the assessment and appellate proceedings were inconsistent, as he initially denied having made the deposits but later provided explanations without having sufficient documentary evidence. The Ld.DR has drawn our attention to Para 5.6 of the assessment order, which is to the following effect :

“5.6 In the instant case, the assessee is found to be owner of the money which has been deposited in his bank account during the year in cash and the explanation given by him regarding the sources of the said money is not found satisfactory in absence of corroborative and supporting evidences and also on the facts and circumstances of the case as narrated above. The onus was on the assessee to furnish a satisfactory explanation supported by evidences to prove whether the cash deposited by him in his bank account was out of his declared sources of income. However, the assessee has failed to discharge his onus.

7. On the other hand, the Ld.DR relied upon the orders of lower authorities and contended that the entire addition of Rs.17,50,000/- under Section 69A of the Act should be upheld.

8. We have heard both parties and perused the material on record. It is evident that the assessee has provided conflicting explanations regarding the source of funds, which weakens the credibility of his claims. However, we note that the assessee's submission regarding accumulation of savings and receipt of financial support from his family over time is plausible to a certain extent, considering his financial position and the circumstantial

evidence presented. The immediate conversion of the cash deposits into fixed deposits within four days, as pointed out by the Assessing Officer, raises valid concerns; however, it does not entirely invalidate the possibility that a portion of the funds may have been legitimate savings. The onus was on the assessee to establish the genuineness of the sources for the cash deposits and the lack of corroborative evidence, such as affidavits from family members or proof of retirement benefits being given to his daughters, limits the acceptance of his explanations. At the same time, the assessee's overall financial narrative and the absence of evidence indicating deliberate concealment suggest that the entire addition may not be justified. Considering the facts and circumstances, we hold that cash deposits to the extent of Rs.15,00,000/- may be reasonably attributed to accumulated savings and financial support from family members. In light of the above, in our view, the assessee is entitled to the relief of Rs.15,00,000/- out of the total amount of Rs.17,50,000/- and the remaining amount of Rs.2,50,000/- is confirmed. Accordingly, the appeal of the assessee is partly allowed.

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

Order pronounced in the Open Court on 22nd January, 2025.

Sd/- (BALAKRISHNAN S.) ACCOUNTANT MEMBER	Sd/- (LALIET KUMAR) JUDICIAL MEMBER
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Visakhapatnam, dated 22.01.2025.
TYNM/sps

Copy to:

S.No	Addresses
1	Venkata Suryanarayana Viswanadham, E-101, Aditya Empress Towers, Shaikpet Nala, Tolichowki, Golconda Post, Hyderabad – 500008, Telangana.
2	The Income Tax Officer, Ward 1, Vijayanagaram.
3	Prl.CIT, Visakhapatnam
7	DR, ITAT, Visakhapatnam Bench.
8	Guard File

By Order