

आयकर अपीलीय अधिकरण न्यायपीठ "एक-सदस्य" मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH "SMC", RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.19/RPR/2025

निर्धारण वर्ष /Assessment Year: 2017-18

M/s. M Subba Raju
D. No.32-12-16, Flat No.401,
Sri Sri Kakatiya Towers, Boyapati
Madhavrao Street, Mogalrajpuram,
Vijaywada
PAN: AAEFM3293R

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer-1,
Rajnandgaon (C.G)

.....प्रत्यर्थी / Respondent

Assessee by : Shri R.B Doshi, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 04.03.2025

घोषणा की तारीख / Date of Pronouncement : 05.03.2025

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM**

This appeal preferred by the assessee emanates from the order of the Ld. CIT(Appeals)/NFAC, Delhi dated 27.11.2024 for the assessment year 2017-18 as per the following grounds of appeal on record:

“1. Ld. CIT(A) erred in confirming addition of Rs.9,00,000/- made by A.O on account of cash deposits in bank account invoking Section 69A. The addition made by the A.O and confirmed by the Ld. CIT(A) is arbitrary, illegal and not justified.

2. Without prejudice to above ground, Ld. CIT(A) erred in confirming addition of Rs.9,00,000/- without appreciating the fact that the bank account in which cash deposits/transactions were made does not belong to appellant.

3. The appellant reserves the right to add, amend or alter any of the ground/s of appeal.”

2. Facts as per records are that the addition has been made by the Assessing Officer on the ground of unexplained cash deposits u/s. 69A of the Act as unexplained money in the hands of the assessee and such cash deposits were made during the demonetization period amounting to Rs.9 lacs. The total cash deposits in F.Y.2016-17 relevant to A.Y.2017-18 was Rs.13,90,000/-, out of which, the A.O disallowed an amount of Rs.9 lacs as unexplained money u/s.69A of the Act. It was explained by the assessee that as regards the amount of Rs.9 lacs, the same was deposited by the partner of the assessee. However, due to similarity in the name of

the assessee as well as the assessee's partnership firm wrong PAN was furnished to the bank and that PAN belongs to the partnership firm and not that of the assessee. The amount was deposited in the account of the partner and inadvertently, the assessee had submitted the PAN of the partnership firm. In more detailed manner, the fact emerges that during the relevant assessment year, there were deposits in two bank account of the partners and in one account, deposits were made of Rs.16 lacs and on the other account deposits were made of Rs.9 lacs. However, while filing the return of income, the assessee had mentioned an amount of Rs.16 lacs which was deposited in one of the account which was accepted by the A.O, thus, there was no addition with regard to this amount. However, with regard to the other amount of Rs.9 lacs, the partner of the assessee in his return of income had not mentioned, therefore, the A.O considered that this amount of Rs.9 lacs, the source of such deposits remained unexplained in the hands of the partnership firm of the assessee and made the said addition.

3. On appeal before the first appellate authority, the Ld.CIT(Appeals)/NFAC upheld the addition of Rs.9 lacs made by the Assessing Officer. For the sake of completeness, the relevant paras are culled out as follows:

“5. Decision:

5.1 The grounds of appeal, assessment order, submissions of the appellant and the relevant Judicial pronouncements have been carefully considered and accordingly grounds of appeal filed by the appellant is adjudicated as under,

5.2 It is observed that during the assessment proceedings, the AO has accepted the source of cash deposits to the extent of Rs.16,00,000/- as it was disclosed by Mr. Subba Raju Moturi in his Individual capacity. Whereas, the cash deposits of balance amount of Rs.9,00,000/- was added in the appellant's case, since source of sold cash deposit of Rs.9,00,000/- was not explained satisfactorily before the AO as per section 69A of the Act.

5.3 During the course of appellate proceedings, the appellant has submitted written submission regarding the cash deposits of Rs.9,00,000/- and also submitted bank account statement of SBI account number: 302175770612(OD Account) for the period between 29.10.2016 to 31.03.2017, 02.04,2017 to 31.03.2018, 02.04.2018 to 06.04.2018, Capital account, statement of income, ITR for 2017-18 and balance sheet. In connection with the cash deposits, the appellant had stated that he had withdrawn cash of Rs.10,00,000/- from SBI current account No:36206491624 on 31.10.2016 and had deposited the Rs.9,00,000/- in SBI saving account No: 200006978348 out of this withdrawal. Whereas, it is noticed from the said SBI OD account that, the above said transaction of 'cash withdrawal of Rs.10,00,000/- has not been reflected on 31.10.2016. Whereas, It is found that an amount of Rs.11,00,000/- has been transferred from SBI OD Account: 36217577612 to SBI current account No:36206491624 on 31.10.2016. Therefore, the appellant has failed to corroborate the cash deposit of Rs.10,00,000/- with the bank account statements.

5.4 Hence, during the appellate proceedings, the appellant was specifically asked to furnish the relevant bank statements for the withdrawal of cash of Rs.10,00,000/- 31.10.2016 and deposits of the same to the tune of Rs.9,00,000/- subsequently in the SBI bank A/C No.3620649124 on 31.10.2016 with reconciliation of said bank accounts vide letter of CIT(A), NFAC dated 12.11.2024. Whereas, the appellant did not furnish the said details despite opportunity of being heard given.

5.6 Hence, I am of the considered view that the appellant did not discharge his onus of proving the genuineness of the said cash deposits of Rs.9,00,000/-. Accordingly, addition made by the AO on account of the said cash deposits of Rs.9,00,000/- in the hands of appellant's firm is sustainable. In view of the facts of the case, the

grounds of appeal filed by the appellant are hereby dismissed on merit.

6. In the end result, the appeal of the appellant is hereby dismissed.”

4. It was submitted by the Ld. Counsel that as per the bank account statement an amount of Rs.10 lacs has been withdrawn from the SBI account which was the source of the cash deposits of Rs.9 lacs in the account of the partner. The Ld. Counsel submitted that these facts were not accepted by the department and the Ld. CIT(Appeals)/NFAC has also not conducted any independent inquiry in terms of Sections 250(4) and (6) of the Act.

5. Per contra, the Ld. Departmental Representative heavily relied on the findings of the revenue authorities and submitted that as per the findings of the Ld. CIT(Appeals)/NFAC, since the reconciliation was not done as regards the withdrawal of the amount of Rs.10 lacs and failed to explain the source of the cash deposits of Rs.9 lacs for the relevant account of the partner, therefore, the addition was justifiably made/sustained by the lower authorities.

6. I have carefully considered the submissions of both the parties, facts and circumstances of the case. It is a case where the addition has been made u/s. 69A of the Act on account of unexplained money in the hands of the partner. I find that there are two aspects involved in the

impugned addition, viz. **(i)** there is wrong appreciation of PAN which was inadvertently given by the partner to the bank which belongs to the partnership firm and not that of the partner. This fact was not considered either by the Assessing Officer or by the Ld. CIT(Appeals)/NFAC and without verifying in terms of Sections 250(4) and 250(6) of the Act, statement of the assessee was not accepted and it was dismissed *per-se*; **(ii)** the assessee had explained the source of cash deposits by furnishing the bank statements of the SBI accounts of the partners where he had withdrawn an amount of Rs.10 lacs and out of which, he had made cash deposits of Rs.9 lacs in the relevant bank account. So the source of the cash deposits has been explained by the assessee and if the Ld. CIT(Appeals)/NFAC was still not satisfied as regards the genuineness of the source of the cash deposits, he could have undertaken an independent inquiry with regard to the same, which was not done in the present case. In that effect, the findings of the Ld. CIT(Appeals)/NFAC becomes cryptic, bereft of facts and not in terms with Sections 250 (4) and (6) of the Act. Also, on perusal of the records, it transpires that the assessee has given explanation with regard to the submission of wrong PAN before the bank and filed bank accounts statement with regard to the source of the said cash deposits. Considering all these facts, I am of the view that since the assessee has duly explained the source of the cash deposits of Rs.9 lacs, therefore, the impugned addition cannot be sustained. Accordingly, I set-

aside the order of the Ld. CIT(Appeals)/NFAC and delete the impugned addition of Rs.9 lacs. Thus, the **Grounds of appeal No. 1 & 2** raised by the assessee are allowed in terms of the aforesaid observations.

7. **Ground of appeal No.3** being general in nature is dismissed as not pressed.

8. In the result, appeal of the assessee is allowed.

Order pronounced in open court on 05th day of March, 2025.

Sd/-

(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 05th March, 2025.

SB, Sr. PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच, रायपुर / DR, ITAT, "SMC" Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur