

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
Visakhapatnam Bench

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री एस. बालकृष्णन, माननीय लेखा सदस्य
SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER
AND
SHRI BALAKRISHNAN. S, HON'BLE ACCOUNTANT MEMBER,

आयकर अपील सं./I.T.A.No.121/Viz/2025
(निर्धारण वर्ष/ Assessment Year: 2016-17)

Deekonda Venkateswara Rao (HUF), R/o.Tadepalligudem. PAN : AAJHD3081K	Vs.	The Income Tax Officer, Ward – 1, Tadepalligudem.
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, Advocate.
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.DR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	10.07.2025
घोषणा की तारीख/ Date of Pronouncement	:	25.07.2025

ORDER

प्रति रवीश सूद, जे.एम./PER RAVISH SOOD, J.M.

The present appeal filed by the assessee (HUF) is directed against the order passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 29.12.2024, which in turn arises from the order passed by the Assessing Officer (for

short “A.O.”) under Section 147 of the Income Tax Act, 1961 (for short “the Act”) dated 25.09.2021 for A.Y. 2016-17. The assessee HUF has assailed the impugned order on the following grounds of appeal before us:

- “1. The order of Learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.
2. The learned Commissioner of Income Tax (Appeals) ought to have held that the addition of Rs.1,11,27,529 towards cash deposits in bank account cannot be made u/s 68 of the Act.
3. Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) is not justified in sustaining the addition of Rs.1,11,27,529 made by the assessing officer u/s 68 of the Act towards alleged unexplained cash deposits in bank account.
4. Any other ground that may be urged at the time of appeal hearing.”

2. Succinctly stated, the A.O., based on information that the assessee during the subject year had made substantial cash deposits of Rs. 1,11,27,529 with M/s. Citizen Cooperative Society Ltd., initiated proceedings under Section 147 of the Act. Notice under Section 148 of the Act, dated 23.01.2020 was issued to the assessee calling upon it to file its return of income for the subject year. In compliance, the assessee filed its return of income disclosing an income of Rs.6,75,060/-. Thereafter, the case of the assessee was selected for scrutiny assessment under Section 143(2) of the Act.

3. During the course of the assessment proceedings, it was the claim of the assessee that it was carrying on the business of purchase/sale of maize on a retail basis. Elaborating on the reason for not having voluntarily filed its return of income for the subject year, the assessee had come forth with two fold reasons viz., (i). that it had remained under a bona fide belief that the income from purchase/sale of agricultural produce like maize, etc., did not fall within the purview of the Income Tax Act; and (ii). that as its income for the subject year was below the taxable limit, therefore, it had remained under the that no obligation was cast upon it to file the return of income.

4. Apropos the cash deposits/withdrawals in its savings bank account No. 40100531685 with Citizen Co-operative Society Ltd, it was the assessee's claim before the A.O that the same pertained to its business transactions of purchase/sale of maize.

5. The A.O. observed that the assessee in its return of income had disclosed income from the business of trading of maize under Section 44AD of the Act at Rs. 6,69,789/-, i.e., @ 8% of its total turnover of Rs. 83,72,355/-. The A.O., in order to verify the veracity of the assessee's claim that it was engaged in the business of trading in maize, directed it to place on record the details of the farmers from whom maize was

purchased along with their addresses, bills, receipts, etc. However, the assessee despite specific directions failed to file the requisite information with the A.O. It was the assessee's claim that, as the subject purchases/sales pertained to the period 01.04.2015 to 31.12.2016, the same were not readily available with him. It was the assessee's claim that he would purchase maize from the nearby agriculturists and sell it on the same day after keeping a margin of Rs. 50/- per bag. Elaborating further on the nature of the business, it was submitted by the assessee that the sale receipts were deposited in its savings bank account maintained with Citizen Co-operative Society Bank, and the same was thereafter withdrawn for making purchases from the agriculturists. Once again, the assessee, on being called upon to produce the details of purchases and sales, expressed its inability to furnish the requisite information on the ground that the same was not readily available with him.

6. The A.O., after verifying the submissions of the assessee, was not persuaded to subscribe to the same for the reason that it had failed to corroborate it with supporting documentary evidence. Rather, the A.O. observed that the verification of the majority of the withdrawals revealed that the cash withdrawals were made by one "Mr. Sagar" and Rs.

10,10,000/- was paid to one “Mr. D. Sivnarayan” in two instances. Accordingly, the A.O. held a firm conviction that the assessee was not dealing with various persons for purchase and sale of maize, as was so claimed by him, and had come with a concocted story to avoid legitimate payment of tax on his unexplained money that was deposited in its bank account during the year under consideration.

7. Further, the A.O. observed that on verification, it was gathered that the assessee had neither filed its return of income either for the immediately preceding or succeeding years and had filed the return of income only for the year in question only after initiation of proceedings under Section 147 of the Act. The A.O., finding no substance in the assessee's claim that the cash deposits/withdrawals in its bank account pertained to the transactions of purchase/sales of maize, rejected the same. Accordingly, the A.O. held the entire amount of cash deposits of Rs.1,11,27,529/- as an unexplained cash credit under Section 68 of the Act.

8. Aggrieved, the assessee carried the matter in appeal before the CIT(A), but without success.

9. Ostensibly, the assessee had come up with two-fold contentions before the CIT(A), viz. (i). that the A.O. had grossly erred in law and on

facts of the case in making the impugned addition of the cash deposits in its bank account as an unexplained cash credit under Section 68 of the Act; and (ii). that the A.O. had grossly erred in rejecting the assessee's claim that the cash deposits/withdrawals in its bank account pertaining to its business transactions of trading of maize during the year under consideration. However, the CIT(A) did not find favour with either of the contentions advanced by the assessee and dismissed the appeal. For the sake of clarity, the observations of the CIT(A) are culled out as under:

5.3 I have carefully gone through all the arguments of the appellant. I have also gone through various case laws relied upon. After careful perusal of assessment order, it reflects several anomalies in the contention of appellant, at the time of assessment proceedings. The assessing officer has discussed all these anomalies in the assessment order. The appellant has mainly objected, the applicability of section 68 in his case, in the absence of books of accounts. The appellant has not furnished any other evidence to promote its case, that the assessee was involved in purchase and sale of maize, and the cash deposits appearing in the bank account pertain to sale and purchase of maize by the appellant. The appellant has vehemently contended that the appellant has not maintained any books of accounts. In his written submission at the time of appellate proceedings the appellant has submitted, that he has submitted before the assessing officer that has maintained rough of account but the same could not be produced as the accountant maintaining the books of accounts had passed away.

In order to verify the claim of appellant, I have gone through the assessment order. At page 5-6 of the assessment order, in reply to question no 2 to the assessee has submitted to file computation of income along with treating, profit and loss account and balance sheet. In reply to question no 4 at page 5 of the assessment order, the assessee submitted that:

"I maintained computerized books of accounts for my business with the accountant. At the time of filing of return of income my accountant has prepared all the necessary statements and obtained. Recently my accountant the seized during the pandemic situation of COVID19. Hence I could not produce the same before your honour"

Further in reply question 3 the assessee has submitted:

'I carried on maize business (Agri product) with and annual turnover of ₹ 83,72, 355/- /and derived a net profit which is less than 8% of turnover and the net profit is below taxable limit of ₹ 242,815. I approached my tax consultant for submission of the IT

returns. According to the advice given by my tax consultant, I opted the provision of section 44 read the and filed the return of income electronically on 2 July 2018 before the ITO. As the total turnover is below the limit to get the books of account audited under section 4480, I have not audited the books of accounts.'

5.4 A perusal of the assessment order at page 6 shows the observation of the assessing officer summing up the anomalies in claim of the appellant and the finding of assessing officer. The observations are:

'on perusal of submission of assessee it is noticed, the assessee has claimed that he was carrying on purchase and sale of maize on retail basis during the year under consideration and the said receipt of the maize are deposited in the savings bank account maintained, at citizen and cooperative society Ltd and same were withdrawn for purchase of the maize from agriculturists but the same is not controverted the trail of bank transaction. Verification of majority of withdrawals reveals, that the cash withdrawals were paid to one 'Mr. Sagar' and 10,10,000/-were paid to one 'Mr D Sivanarayana 'in two instances. Thus it is very much clear that assessee has not deal with various persons for purchase and sale of retail basis but it is an afterthought in order to avoid the legitimate payment of tax on account of money deposited in his bank account.

Further on verification of status of filing of return of income for immediate preceding and succeeding years, it is found that the assessee has never filed return of income for any assessment year except the year under consideration, that after the initiation of proceedings under section 147. Meaning thereby the assessee's contention of retail maize purchase and sale is nothing but an afterthought in order to avoid the legitimate payment of taxes on unexplained cash credits deposited in bank account.'

5.5 In view of the detailed facts as discussed above, and the anomalies found by the assessing officer at the time of assessment proceedings, as discussed by the assessing officer in the assessment order in detail, I find myself in agreement with the view of assessing officer.

As far as the contention of appellant with regard to application of section 68 of the income tax act goes, I find that the appellant has claimed to maintain books of accounts at the time of proceedings, however due to the death of accountant of appellant the same could not be produced. The appellant has even stated about non-audit of books of accounts at the advice of his professional advocate. The mere nonproduction of books of accounts does not mitigate the fact that the assessee has admitted maintenance of books of accounts at the time of assessment proceedings but did not produce the same.

hence on my considered view the addition under section 68 is valid and deserve to be upheld. Accordingly, the addition of Rs.1,11,27,529/- is on account of unexplained cash credits under section 68 is confirmed. Accordingly, these ground of grounds of appeal are dismissed

Ground of appeal NO -5:

This ground deals with appellants submission of explanation for the purpose of cash deposits made in the bank account. I have gone through the appellant's contention in the facts of the case along with the documents available on record. I do not find myself in agreement with the contention of appellant. As discussed above the assessing officer has discussed in detail by passing assessment order that the assessee could not established his claim of dealing in agricultural commodity trading business of sale and purchase of maize. The appellant could not produce any bills vouchers or any other documentary evidence, in support of his contention of dwelling in agricultural commodity of maize. The assessing officer has also mentioned in the assessment order that, the appellant has never filed his return of income, in previous years , or subsequent year , except the year under consideration. Accordingly I do not find any substance in the submission of appellant.

With the result this ground of appeal is dismissed.

10. The assessee, being aggrieved with the order of the CIT(A), has carried the matter in appeal before us.

11. We have heard the Ld. Authorized Representatives of both parties, perused the orders of the lower authorities and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by the Ld. AR to drive home his contentions.

12. Shri G.V.N. Hari, Advocate, the learned Authorized Representative (for short "Ld.AR") for the assessee, at the threshold of hearing of the appeal, submitted that both the authorities below had grossly erred in law and on facts of the case in rejecting the assessee's claim that the cash deposits/withdrawals in its Savings Bank account No. 40100531685 with Citizen Co-operative Society Ltd. pertained to its business transactions of purchase/sale of maize which it was carrying out during the year under consideration. Elaborating further on his contention, the Ld. AR submitted that now when the A.O. while framing the assessment had accepted the business income of Rs. 6,69,789/- that the assessee had disclosed in its return of income on a presumptive basis u/s 44AD of the Act i.e @ 8% of its gross turnover of Rs.83,72,355/-, thereafter, he could not have rejected its claim that the subject cash deposits in its bank account were sourced out of the sale proceeds generated in the normal course of the said business. Alternatively, the Ld. AR submitted that even if the explanation of the assessee was not to be accepted, the addition in its case could only have been made to the extent of the peak credit of the transactions in the subject bank account during the year. The Ld. AR had drawn our attention to a "Chart" revealing the computation of the peak credit, which as pointed out by him on 11.09.2015 worked out at Rs.

11,45,629/-. The Ld. AR, to buttress his claim that in case there are a chain of cash deposits/withdrawals in a bank account of an assessee over a year, then, the addition is liable to be restricted only to the extent of the peak credit in the bank account, had relied upon the order of the Tribunal in the case of ITO, Ward-2(1), Rajahmundry Vs. Smt. Laveti Lalitha, ITA No. 171/Vizag/2016, dated 25.04.2018 and ITO, Ward-2(1), Visakhapatnam Vs. Shri S. Siva Rama Reddy, ITA Nos.250 & 252/Vizag/2015, dated 30.12.2016. The Ld. AR submitted that the Tribunal in both the aforementioned orders had observed that in case the explanation of the assessee regarding the source of the cash deposits is not to be accepted, then, the A.O., in all fairness, should consider both the cash deposits as well as cash withdrawals for determining the peak addition, which alone could be brought to tax in his hands. The Ld. AR submitted that in case the claim of the present assessee that the cash deposits/withdrawals in its bank account during the year under consideration pertained to its business of trading of maize was not to be accepted, then the addition in its case, in all fairness, was liable to be restricted to Rs.11,45,629/- i.e., the amount of the peak credit in the bank account.

13. Per contra, Dr. Aparna Villuri, the learned Senior Departmental Representative (for short "Ld. DR") relied upon the orders of lower authorities. The Ld. D.R submitted that the assessee had failed to come forth with any material which would irrefutably substantiate that the cash deposits/withdrawals in its bank account during the subject year pertained to the transactions of trading of maize carried out by him during the year, therefore, the A.O. had rightly rejected its explanation. It was further stated by her that as the assessee had failed to provide any plausible explanation regarding the nature and source of the deposits of Rs. 1.11 crores (approx.) in its bank account, therefore, the same had rightly been assessed as unexplained cash credit under Section 68 of the Act. The Ld. DR submitted that as the order passed by the CIT(A) does not suffer from any infirmity, therefore, the appeal filed by the assessee being devoid and bereft of any substance was liable to be dismissed.

14. We have thoughtfully considered the contentions advanced by the Learned Authorized Representatives for both parties in the backdrop of the orders of lower authorities.

15. We are of the view that now when the A.O. while framing the assessment had accepted the business income of Rs. 6,69,789/- that

the assessee had disclosed in its “return of income” on a presumptive basis u/s 44AD of the Act i.e @ 8% of its gross turnover of Rs. 83,72,355/- from its business of trading in maize, thereafter, he could not have summarily rejected its claim that the subject cash deposits or any part thereof in its Bank account No. 40100531685 with Citizen Co-operative Society Ltd. were sourced out of the sale proceeds generated in the normal course of the said business. We, say so, for the reason that it is neither the observation of the A.O that the business sale proceeds of Rs. 83.72 lacs (approx.) were found to have been deposited by the assessee in some other bank account or was lying available with him as cash in hand. Accordingly, the probability of the part of the sale proceeds of the assessee’s business of trading in maize, having been routed as cash deposits in the assessee’s bank account no. 40100531685 (supra) during the subject year cannot be ruled out. However, we remain conscious of the fact that the assessee despite specific directions of the A.O, had failed to lead any evidence that could substantiate its claim that the cash deposits/withdrawals made in its bank account during the subject year pertained to the transactions of purchase/sale of agricultural produce. Accordingly, as the assessee had failed to discharge the onus that was cast upon it to substantiate its explanation regarding the source of the cash deposits in its bank

account, therefore, we refrain from dislodging the rejection of the same by the authorities below.

16. However, we find substance in the Ld. AR's claim that as the subject cash deposits in the assessee's Saving Bank account No. 401000531685 with the Citizens Co-operative Society Ltd, Tadepalligudem were preceded by cash withdrawals, therefore, in all fairness, even if its explanation that the subject cash deposits were sourced from its business receipts was not to be accepted, the addition in its case was liable to be restricted only to the extent of the "peak credit" in the said bank account during the subject year. We, say so, specifically for the reason that neither it is the claim of the Department; nor a fact discernible from the record that the cash withdrawals made over the year, i.e. during the period 01.04.2015 to 31.03.2016 from the bank account had either been shown to have been invested or utilized by the assessee, and thus, were no more available with it for re-depositing the same by way of subsequent deposits in the said account. Our aforesaid view that for deducing the true and correct income of an assessee, the A.O., in all fairness, should consider both the cash deposits as well as cash withdrawals made by the assessee from his bank account is supported by the order passed by the Tribunal in the

case of **ITO, Ward-2(1), Rajahmundry Vs. Smt. Laveti Lalitha, ITA No.171/Vizag/2016, dated 25.04.2018**, wherein the Tribunal, while emphasizing on the fact that the income of the assessee in the case before them, in all fairness, was required to be determined based on the peak credit method, had observed as under :

“6. We have heard both the parties, perused the materials available on record and gone through the orders of the authorities below. The A.O. disbelieved the submission of the assessee that the cash deposits do not belong to Mr. V. Venkateswara Rao and held that the entire cash deposits made in the bank account related to the assessee. Mr. V. Venkateswara Rao sources does not support the probable income earnings from the agricultural land possessed by him. Similarly, since Mr. V. Venkateswara Rao is suffering from ill health, he does not have capacity to take the lands on lease and earn the income. Therefore, the A.O. believed that the entire cash deposits are related to assessee but not belonging to Mr. V. Venkateswara Rao as stated by her. **Having come to conclusion that the cash deposits were made by the assessee in the savings bank account, it is fair on the part of the A.O. to consider both the cash deposits as well as cash withdrawals for determining true and correct income. The Ld. CIT(A) considering the facts of the case directed the A.O. to re-determine the income by peak credit method. Since there was cash withdrawals and deposits, we hold that the CIT(A) rightly directed the A.O. to determine the income on peak credit method.** Accordingly, we uphold the order of the Ld. CIT(A) and dismiss the appeal of the revenue.”

(emphasis supplied by us)

Also, a similar view had been taken by the Tribunal in the case of **Income Tax Officer, Ward – 1(2), Visakhapatnam Vs. Shri S. Siva Rama Reddy, ITA Nos.250 & 252/Vizag/2015 dated 30.12.2016**. For the sake of clarity, the observations of the Tribunal are culled out as under:

“It is the claim of the assessee that the assessee has withdrawn money in various places for the purpose of business and the same has been re-deposited in the bank account, therefore, if at all, any addition is warranted, only additions can be made for peak credit found in the bank account. **We find that the assessee has withdrawn cash on various dates. Unless the A.O. proves that cash withdrawals has been utilized for personal expenditure or deployed for acquisition of assets, the sources available in the form of cash withdrawals cannot be ignored while considering credits in the bank account. Therefore, we are of the view that the A.O. was erred in making additions towards total credits found in the bank account. Hence, we direct the A.O. to work out peak credits found in the bank account and make additions to the peak credit instead of total credits found in the bank account.**”

(emphasis supplied by us)

17. We, thus, in the absence of any material having been placed on record by the assessee which would irrefutably substantiate its claim that the subject cash deposits in its bank account were sourced out of the sale proceeds of its business of trading in maize, are not inclined to dislodge the view taken by the authorities below which have rejected the same. However, considering the facts of the present case in the backdrop of the view taken in the aforementioned cases by the Tribunal, we direct the A.O. to restrict the addition in the hands of the assessee to the extent of the “peak credit” appearing in its bank account during the year under consideration. At this stage, we may herein observe that though the Ld. AR has filed before us a “Chart” revealing the computation of peak credit for the subject year at Rs. 11,45,629/- (supra), but as it cannot be summarily accepted, therefore, we direct

the A.O. to verify the same while giving effect to our aforesaid observations.

18. We thus, in terms of our aforesaid observations, set aside the CIT(A) order and restrict the addition in the hands of the assessee to the extent of the “peak credit” appearing in its bank account during the subject year. The **Ground of Appeal No. 3** is partly allowed in terms of our aforesaid observations.

19. As the Ld. AR has not placed any contention *qua* the **Ground of Appeal No. 2**, therefore, the same is dismissed as not pressed.

20. The **Grounds of Appeal Nos. 1 and 4** being general in nature are dismissed as not pressed.

21. Resultantly, the appeal filed by the assessee is partly allowed in terms of our aforesaid observations.

Order pronounced in the Open Court on 25th July, 2025.

<p>Sd/- (एस. बालकृष्णन) (S. BALAKRISHNAN) लेखा सदस्य/ACCOUNTANT MEMBER</p>	<p>Sd/- (रवीश सूद) (RAVISH SOOD) न्यायिक सदस्य/JUDICIAL MEMBER</p>
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Hyderabad, dated 25.07.2025.
TYNM/sps

आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारिती/The Assessee	:	Deekonda Venkateswara Rao (HUF), D.No.7-24-1, Pathuru, Kode Vari Veedhi, Tadepalligudem, West Godavari District.
2.	राजस्व/ The Revenue	:	The Income Tax Officer, Ward – 1, Tadepalligudem.
3.	The Principal Commissioner of Income Tax, Visakhapatnam.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, / DR, ITAT, Visakhapatnam.		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam