

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक

**IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK
(THROUGH VIRTUAL HEARING)**

श्री जार्ज माथन, न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष ।

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND**

SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.101/CTK/2025

(निर्धारण वर्ष / Assessment Year : 2017-2018)

Sunil K Epari, 123, Putnam Way Silver Spring Mechanicsburg, Foreign, United States of America	Vs	ACIT, International Taxation, Bhubaneswar
PAN No. : ABXPE 7883 R		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri Pranaya Kumar Mishra & Shri Prashant Mishra, ARs
राजस्व की ओर से / Revenue by	:	Shri Vijay Singh, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	01/12/2025
घोषणा की तारीख/ Date of Pronouncement	:	01/12/2025

आदेश / O R D E R

Per Bench :

This is an appeal filed by the assessee against the order passed by the Id. CIT(A), Kolkata-22, dated 28.11.2024 for the assessment year 2017-2018.

2. At the outset, we found that the appeal of the assessee is delayed by 11 days. In this regard, the assessee has filed condonation of application along with affidavit stating sufficient reasons for condonation of delay, which are not found to be false. Ld. Sr. DR did not object to condone the delay. Accordingly, we condone the delay of 11 days delay and proceed to dispose off the appeal.

3. It was submitted by the Id. AR that two additions are in dispute. The first addition is in respect of cash deposit of Rs. 15,99,000/- and the second

addition is in respect of source for the purchase of an immovable property for Rs.65,50,898/-. It was the submission that the assessee is an NRI. In regard to the amount of Rs.15,99,000/-, Id. AR drew our attention to the order of the Id. CIT(A) in para 5.1 to 5.3. It was the submission that these amounts were withdrawn from ICICI bank NRO account of the assessee i.e. Rs.5,00,000/- on 18.04.2016 and Rs.7,00,000/- on 20.04.2016 and from the money he exchanged at the time of his visit to India. It was the submission that the amounts have been withdrawn for the construction of a property purchased in Behrampur, however, during the demonetization period an amount of Rs.8,99,000/- and Rs.7 lakhs was deposited. It was the submission that these money drawn from the NRO account of the assessee could not be utilized, therefore, the funds were redeposited during the demonetization period. It was the submission that the assessee was only source of income from the income from house property being rental income. It was the submission that the assessee has no other income or sources in India. It was the submission that the Id. CIT(A) has accepted the source of Rs.3,21,402/- and has confirmed the balance addition of Rs.12,77,598/-. It was the submission that the money were withdrawn from the NRO account and it is not disputed. There is no deposit in the bank account of the assessee during demonetization period.

4. In reply, Id. Sr. DR vehemently supported the orders of the AO and Id. CIT(A). It was the submission that the assessee has not proved that the funds withdrawn were not used for its activity for which it was withdrawn.

5. We have considered the rival submissions. It is an accepted fact that the assessee is an NRI. It is also an accepted fact that the assessee does not have any other source of income in India other than rental income. It is an accepted fact that the moneys have been withdrawn from the account of the assessee maintained with ICICI bank and he exchanged at the time of his visit to India. This has also been examined by the Id. AO and Id. CIT(A). When the money has withdrawn from the bank accounts and redeposited in the bank account of the assessee on account of demonetization, it would be held that the deposit during the demonetization is out of the accounted money of the assessee, especially when there is no source of the assessee of unaccounted income. Consequently, the addition of Rs.12,77,598/- made by the AO and confirmed by the Id. CIT(A) stands deleted.

6. In regard to the addition of Rs.65,50,898/-, it was submitted by the Id. AR that these funds were received by the assessee from the NRE account of his concern and the same were received in NRE account of the assessee. It was the submission that the Id. CIT(A) took the stand that the assessee had not proved that the funds were actually provided to one of his friends, namely, Shri Silla Malleswar Rao in 2014 and, therefore, had confirmed the addition. It was the submission that the transactions were through bank account and these are NRE accounts for which local cheques cannot be introduced. These are the funds that have been received by the assessee from his foreign friends and the same is liable to be deleted.

7. In reply, Id.Sr. DR submitted that the assessee has not shown that the assessee has provided the loan to his friend which has been repaid

now. It was the submission that the assessee having not shown the said earlier transaction and as there was no entry of loan having been provided by said Silla Malleswar Rao to the assessee, the addition is liable to be upheld.

8. We have considered the rival submissions. The submission of the assessee that the assessee had provided funds to his friend Shri Silla Malleswar Rao is a transaction in 2014. The transaction of Rs.65,50,898/- is of the impugned assessment year 2017-2018. The transaction of 2014 would have no bearing to the transaction made in A.Y.2017-2018. The transaction having been done only through bank account that too through NRE account only, it cannot be said that the transactions are undisclosed income of the assessee. This being so, the addition as made by the AO and as confirmed by the Id.CIT(A) of Rs.65,50,898/- stands deleted.

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

Order dictated and pronounced in the open court on 01/12/2025.

Sd/-

(राजेश कुमार)

(RAJESH KUMAR)

लेखा सदस्य/ **ACCOUNTANT MEMBER**

Sd/-

(जार्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य / **JUDICIAL MEMBER**

दिनांक Dated 01/12/2025

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant -
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकर अपीलीय अधिकरण,
कटक/ITAT, Cuttack