

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad 'SMC' Bench, Hyderabad**

**Before Shri R.K. Panda, Vice-President**

आ.अपी.सं / **ITA No.187/Hyd/2024**  
(निर्धारण वर्ष / Assessment Year: 2017-18)

Shri Krishna Murthy Vuppala Hyderabad PAN:AJIPV6286C	Vs.	Income Tax Officer Ward 6(1) Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	Adv. Mohd. Afzal	
राजस्व द्वारा / Revenue by: :	Smt.Harshita Chouhan, DR	
सुनवाई की तारीख / Date of hearing:	18/03/2024	
घोषणा की तारीख / Pronouncement:	20/03/2024	

**आदेश/ORDER**

This appeal filed by the assessee is directed against the order dated 27.12.2023 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2017-18.

2. There is a delay of 1 day in filing of this appeal for which the assessee has filed a condonation application along with an affidavit explaining the reasons for such delay. After considering the contents of the condonation application along

with the affidavit and after hearing the learned DR, the delay in filing of this appeal by one day is condoned and the appeal is admitted for adjudication.

3. Although a number of grounds have been raised by the assessee, however, these all relate to the order of the learned CIT (A) NFAC in not condoning the delay of 40 days in filing of the appeal and thereby sustaining the addition of Rs.9,79,000/- made by the Assessing Officer u/s 69A of the I.T. Act.

4. Facts of the case, in brief, are that the assessee is an individual and is Proprietor of M/s. Krishna Provision Store. He filed his return of income for the A.Y 2017-18 on 28.11.2017 admitting an income of Rs.8,30,180/-. The case was selected for scrutiny under CASS and statutory notices u/s 143(2) & 142(1) were issued calling for certain information such as details of bank accounts held during the year under consideration, source for the deposit during demonetization period etc., However, there was no response from the side of the assessee for which the Assessing Officer proceeded to complete the assessment u/s 144 of the I.T. Act.

5. The Assessing Officer issued notice u/s 133(6) of the I.T. Act to the following Bank calling for the copy of the statement of accounts, details of denomination-wise particulars of cash

deposited during the demonetization period for verification of the deposits:

Bank of India, SR Nagar Branch Hyderabad	867320110000325 & 8637101100018
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6. From the information so furnished by the bank, the Assessing Officer noted that the assessee has made cash deposit of Rs.34,27,250/- during demonetization period out of which an amount of Rs.9,79,000/- was deposited in specified bank note currency. Since there was no response from the side of the assessee to explain the nature and source of such deposits made into bank accounts, the Assessing Officer, applying the provisions of section 69A r.w.s. 115BBE of the I.T. Act made addition of Rs.9,79,000/.

7. In appeal, the learned CIT (A) NFAC sustained the addition so made by the Assessing Officer. Since there was a delay of 40 days in filing of the appeal before him, the learned CIT (A) NFAC did not condone the delay in absence of sufficient reasons. However, he decided the appeal on merit also. He rejected the explanation of the assessee that the assessee has offered the income under presumptive tax u/s 44AD of the Act. He further held that the primary onus lies on the assessee to produce documents explaining the nature and source of the cash deposits in his bank accounts. However, the assessee during the course of assesment proceedings has not produced any document to explain the nature and source of cash deposits in

the form of SBN amounting to Rs.9,79,000/-. He accordingly upheld the action of the Assessing Officer.

8. Aggrieved with such order of the learned CIT (A) the assessee is in appeal before the Tribunal.

9. The learned Counsel for the assessee submitted that the assessee is engaged in the business of provision store and was following the provisions of section 44AD of the I.T. Act. Although no books of account were maintained, however, the amount of Rs.9,79,000/- was deposited out of the cash available with the assessee as on 8.11.2016 in old currency i.e. specified bank notes which were deposited during the demonetization period. He submitted that given an opportunity the assessee is in a position to substantiate with evidence to the satisfaction of the Assessing Officer/learned CIT (A) NFAC as the case may be regarding the source of such deposits. The assessee relied on the following decisions:

- a) Ankit Shankar vs. ACIT (ITA No.154/NGP/2021) order dated 8<sup>th</sup> June, 2022.
- b) Hardeep Kaur vs. Income Tax Officer in ITA No.142/Lkw/2021 order dated 20<sup>th</sup> July, 2022.
- c) Syed Maqsoodulla vs. Income Tax Officer ITA No.397/Bang/2019 order dated 11.09.2020
- d) Narendra Kumar Gupta vs. DCIT in ITA No.1186/Del/2023 order dated 11.10.2023

10. The learned DR, on the other hand, submitted that the assessee during the course of assessment proceedings did not produce any details/evidences for which the Assessing Officer was constrained to pass the order ex-parte. Even before the learned CIT (A) NFAC the assessee also did not make any effective submission except stating that he has received SBN currency note of Rs.9,79,000/- during the course of regular business transaction from customers during 9.11.2016 to 31.12.2016. In other words, the assessee has accepted the specified bank notes as part of business transactions. Various decisions relied on by the learned Counsel for the assessee are not applicable to the facts of the present case. She accordingly submitted that the order of the learned CIT (A) NFAC being exhaustive should be upheld and the grounds raised by the assessee should be dismissed.

11. I have heard the rival arguments made by both the sides, perused the orders of the AO and the learned CIT (A) and the paper book filed on behalf of the assessee. I have also considered the various decisions cited before me by both sides. I find the assessee in the instant case did not produce any evidence before the Assessing Officer nor replied to the statutory notices for which the Assessing Officer was constrained to pass the order u/s 44AD of the I.T. Act and thereby made addition u/s 69A r.w.s. 115BBE of the I.T. Act being the cash deposited during the

demonetization period. I find learned CIT (A) NFAC upheld the action of the Assessing Officer on the ground that the assessee did not produce any document to explain the nature and source of SBN amounting to Rs.9,79,000/-. It is the submission of the learned Counsel for the assessee that the assessee is engaged in the business of provision stores and no books of account are maintained and the income was offered on presumptive tax basis as per provisions of section 44AD of the Act and that the specified bank notes are out of the business receipts on which taxes has already been paid and the addition of the same would amount taxing the same amount twice. It is also his submission that given an opportunity, the assessee is in a position to substantiate with evidence to the satisfaction of the Assessing Officer regarding the month-wise deposit of such cash deposits in the preceding and subsequent years so as to substantiate that the cash so deposited during the demonetization period is in commensurate with the nature of business conducted by the assessee and there is no abnormality in such cash deposits. Considering the totality of the facts of the case and in the interest of justice, I deem it proper to restore the issue to the file of the Assessing Officer with a direction to give one final opportunity to the assessee to substantiate with evidence to his satisfaction regarding the nature and source of the cash deposit of Rs.9,79,000/- during the demonetization period. The Assessing Officer shall decide the issue as per fact and law after giving due opportunity of being heard to the assessee. I hold and direct accordingly. The grounds

raised by the assessee are accordingly allowed for statistical purposes.

12. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 20<sup>th</sup> March, 2024

**Sd/-**

**(R.K. PANDA)**  
**VICE-PRESIDENT**

Hyderabad, dated 20<sup>th</sup> March, 2024

**Vinodan/sps**

Copy to:

S.No	Addresses
1	Shri Krishna Murthy Vuppala, H.No.8-3-165/B/5/A Neelima Hospital Road, Erragadda, Hyderabad 500018
2	Income Tax Officer Ward 6(1) Hyderabad
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*