



आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH, CHENNAI**

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND  
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 2775/CHNY/2024  
निर्धारण वर्ष/Assessment Year: 2017-18

**Shri Goopalliappa Narasimhaiah,**  
No.3/150, Avalapalli (Village & Post),  
Hosur – 635 109.

**The Income Tax Officer,**  
Vs. Ward 1,  
Hosur.

**PAN: AFJPN 2116A**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri Ravi Shankar, Advocate  
(Through Virtual Mode) &  
Shri D.C. Koushick, C.A.  
प्रत्यर्थी की ओर से/Respondent by : Ms. Anitha, Addl.CIT  
सुनवाई की तारीख/Date of Hearing : 03.02.2025  
घोषणा की तारीख/Date of Pronouncement : 05.02.2025

**आदेश / O R D E R**

**PER GEORGE GEORGE K, VICE PRESIDENT:**

This appeal at the instance of the assessee is directed against CIT(A)/NFAC's order dated 03.09.2024, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2017-18.

2. The solitary issue raised is whether the CIT(A) is justified in confirming the addition of Rs.88,50,000/- u/s.69A r.w.s 115BBE of the Act.

3. Brief facts of the case are as follows:

The assessee is an individual. For the assessment year 2017-18, the assessee had filed return of income disclosing a sum of Rs.3,73,000/- under the head 'income from business'. The assessee had also declared agricultural income of Rs.2,55,632/-. The assessment was selected for scrutiny and notice u/s.143(2) of the Act was issued on 21.09.2018. The assessee was directed to explain the source of cash deposits of Rs.88,50,000/- made during the demonetization period. Since several notices issued u/s.142(1) of the Act remained non-compliant by the assessee, the AO issued show cause notice on 29.11.2019 proposing to treat the entire cash deposits of Rs.88,50,000/- to be added u/s.69A r.w.s. 115BBE of the Act. In response to show-cause notice issued by the AO, the assessee filed a letter stating that cash deposits are out of cancellation of a sale agreement (mutually cancelled) and advance received from the assessee was refunded partly by cash and partly by bank transfers. Since the letter of the assessee did not give the complete details, the AO in order to verify the genuineness of the letter and veracity of any

property transaction that assessee had undertaken with the two persons namely Shri C. Muniraju and Shri C. Nagesh, issued notice u/s.133(6) of the Act on 15.12.2019 to both of them. Since there was no response within the reasonable time from Shri C. Muniraju and Shri C. Nagesh, the AO treated the entire amount of cash deposits of Rs.88,50,000/- as unexplained and made addition u/s.69A r.w.s. 115BBE of the Act. The relevant finding of the AO reads as under:-

*“6. In order to verify the genuineness of the letter and to verify any property transaction that the assessee could have carried out by the assessee with the above mentioned persons, notices u/s 133(6) of the Income Tax Act, 1961, dated 15.12.2019 was issued to both Shri. C. Muniraju and Shri. C. Nagesh, calling for information regarding details of immovable property transaction carried out with the assessee during the FY 2015-16 and 2016-17 with copies of registered documents/agreements: amounts received from the assessee towards the immovable property transaction; Dates of receipts; amounts paid to the assessee during the FY 2015-16 and 2016-17, if any, with reason for payment with supporting documents; details of amounts paid date wise with mode of payment and if the amounts were paid in cash, denomination of cash paid; source for the amounts, if any, paid to the assessee. The above mentioned notices were issued and served on the above persons at the address mentioned in the letter submitted by the assessee. There was no response from the above persons till date. The absence of above response from the above persons can only be construed that the assessee has not entered into any property transaction with the above mentioned persons. Thus the assessee has failed to establish the source for the cash deposits to the tune of Rs.88,50,000/- in his bank accounts during the F.Y.2016-17. The onus to prove the nature and source of the cash deposits in the assessee's bank account lies upon the assessee and the assessee has failed in proving the genuineness of the cash deposited in bank accounts. In the decision of the Hon'ble Supreme Court in the case of Roshan Di Hatti Vs CIT (1977) 107 ITR 938 (SC), Kale Khan Mohammed Hanif Vs CIT (1963) 50 ITR 1 (SC), where the nature and source of a receipt, whether it be of money or other property, cannot be satisfactorily explained by the assessee, it is open to the revenue to hold that it is the income of the assessee and no further burden lies on the*

*revenue. In the instant case the assessee failed to prove the source for the cash deposits with evidences. In view of the above a sum of Rs. 88,50,000/- deposited in cash in the bank accounts of the assessee, is treated as unexplained money u/s 69A of the Income Tax Act, 1961 r.w.s 115BBE of the income tax act, 1961. In view of this penalty proceedings u/s 271AAC(1) of the Income Tax act, 1961 is initiated separately.”*

4. Aggrieved by the assessment completed u/s.143(3) of the Act, the assessee filed an appeal before the First Appellate Authority (FAA). The assessee has furnished additional evidences namely confirmation of both Shri C. Muniraju and Shri C. Nagesh stating that they have repaid the advance amount paid by assessee on cancellation of sale deed dated 03.02.2016 partly in cash and partly through bank transfer during demonetization period. (The confirmation submitted was the information sought by the AO in his notice u/s.133(6) of the Act). The CIT(A) however, didn't admit the additional evidence and dismissed the appeal of the assessee by confirming the addition made by the AO u/s.69A r.w.s. 115BBE of the Act.

5. Aggrieved by the order of the CIT(A), the assessee has filed the present appeal before the Tribunal. The grounds raised by the assessee reads as under:-

*1. The order passed by the Ld. CIT(A) u/s 250 of the Act, is opposed to law, equity, weight of evidence, natural justice, probabilities, and facts and circumstances of the Appellant's case.*

2. *The appellant denies himself to be assessed to an income of Rs.92,23,000/- against the returned income of Rs.3,73,0 0o/- on the facts and circumstances of the case.*
3. *The learned CIT(A) erred in law in not accepting the additional evidences submitted in accordance with Rule 46A of the Act on the facts and circumstances of the case.*
4. *The learned CIT(A) failed to appreciate that the appellant had reasonable cause for not submitting the documents before the AO, and the same was due to lack of professional assistance during the course of the assessment on the facts and circumstances of the case.*
5. *The learned CIT(A) is not justified in law in rejecting the additional evidences submitted by the appellant without issuing a show cause of notice of proposed rejection of additional evidences on the facts and circumstance of the case.*
6. *The learned CIT(A) failed to appreciate that the sources of cash deposits of Rs.88,50,000/- were out of repayment of advances given for purchase of property, and the said advances were given out of withdrawals of fixed deposits, and the said fixed deposits were created out of sale of agriculture land during the PY 2014-15, on the facts and circumstances of the case.*
7. *The learned CIT(A) was not justified in law in confirming the addition of Rs.88,50,000/- & applicability of section 69A r.w.s 115BBE of the Act on the facts and circumstance of the case.*
8. *Without prejudice, the learned CIT(A) failed appreciate that the order of assessment was passed without providing the sufficient opportunity of hearing to the appellant, which is in violation of principle of natural justice, on the facts and circumstance of the case.*
9. *The appellant craves leave to add, alter, modify, delete or substitute any or all of the grounds and to file a paper book at the time of hearing the appeal.*
10. *In the view of the above and other grounds that may be urged at the time of the hearing of the appeal, the Appellant prays that the appeal may be allowed in the interest of justice and equity.*

6. The assessee has filed a paper-book enclosing therein copy of sale deed dated 06.11.2014 for a consideration of Rs.2,51,13,600/- and Rs.65,52,000/-, copy of agreement of purchase dated 03.02.2016 entered by the assessee with Shri C. Muniraju and Shri C. Nagesh

paying an advance of Rs.1,30,00,000/-, copy of cancelation deed dated 28.10.2016, copy of the e-mail response of the confirming party before the AO, copy of the confirmations given by Shri C. Muniraju and Shri C. Nagesh in response to the notice issued u/s.133(6) of the Act, etc. The Ld.AR submitted as regards the property transaction, the AO himself has sought for the information by issuance of notice u/s.133(6) of the Act and since the sellers of the impugned property was out of station during the relevant period, their response was filed late (i.e., after the passing of the impugned assessment order u/s.143(3) of the Act). It was submitted by the Ld.AR that the CIT(A) has erred in not admitting the additional evidences which was the very same evidence called for during the course of assessment proceedings by the AO.

7. The Id.DR supported the order of the AO and the CIT(A).

8. We have heard rival submissions and perused the materials on record. The assessee's claim is that he has sold certain agricultural land in the year 2014 for a total consideration of Rs.3,17,39,784/- by a sale deed's dated 06.11.2014. It is submitted by the Ld.AR that the amount received by the assessee for sale of agricultural land was put in FD's and the same was withdrawn when assessee wanted to purchase a land by entering into a purchase deed on 03.02.2016. The Ld.AR has placed on

record the bank statements of the assessee showing the credit and debit in the bank statements. It is submitted by the Ld.AR that the payments made to Shri C. Muniraju and Shri C. Nagesh for purchase of intended agricultural land through agreement of purchase on 03.02.2016 was cancelled vide deed dated 28.10.2016 and the sellers of the intended property has returned the amount partly in cash and partly through bank transfers. It is submitted by the Ld.AR that the cash given by the intended sellers of the property were deposited during the demonetization period.

9. We find that, the AO had primarily rejected the explanation of the assessee since the intended sellers of the agricultural land had not responded to the notices issued u/s.133(6) of the Act before the completion of the assessment order. It is an admitted fact that the intended sellers of the agricultural land which was sought to be purchased by the assessee had given their confirmation and the same has been placed on record from pages 74 to 77 of assessee's paper-book. At page 74 of PB, it has been clearly mentioned in confirmation filed by the intended seller of the property that they were out of station and consequentially the information that was sought by the AO in the notice issued u/s.133(6) of the Act was filed belatedly. The CIT(A) has also not taken into consideration, the additional evidence

which is the very same information that was sought by the AO by issuance of notice u/s.133(6) of the Act. Therefore, in the interest of justice and equity, we are of the view that the confirmation given by the intended sellers of the property needs examination. Accordingly, we restore the matter to the files of the AO for fresh adjudication. The AO shall afford reasonable opportunity of hearing to the assessee. The assessee is directed to co-operate with the Revenue and shall not seek unnecessary adjournment. It is ordered accordingly.

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

Order pronounced in the open court on 5<sup>th</sup> February, 2025 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

**(S.R. RAGHUNATHA)**

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 5<sup>th</sup> February, 2025

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.

Sd/-

(जॉर्ज जॉर्ज के)

**(GEORGE GEORGE K)**

उपाध्यक्ष /VICE PRESIDENT