IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD 'B' BENCH : Hyderabad

(Through Video Conference)

Before Smt. P. Madhavi Devi, Judicial Member
And
Shri A. Mohan Alankamony, Accountant Member

ITA No. 524/Hyd./2020
Assessment Year: 2017-18

Sri Krishna Sri Ram Hyderabad	vs.	ITO, Ward 13(4) Hyderabad

[PAN: ANTPS6530M]

(Appellant) **(Respondent)**

For Assessee: Sri Harsha, Adv.
For Revenue: Sh. Rohit Mujumdar, D.R

Date of Hearing : 08/07/2021
Date of Pronouncement : 13/09/2021

O R D E R

PER P. MADHAVI DEVI, JM

This is assessee's appeal for A.Y. 2017-18 against the order of CIT(Appeals)-4, Hyderabad dated 30.07.2020.

2. Brief facts of the case are that the assessee is an individual and is the retired Dy. Director (IES) with Micro Small and Medium Enterprises (MSME). During the de-monetization period, the assessee has deposited cash of Rs. 10,00,000/- into his bank account no. 10558669824 with SBI, Balanagar branch during the FY 2016-17 relevant to the A.Y 2017-18. Since the assessee did not file his return of income, notice u/s 142(1) of the Income Tax Act, 1961 [the Act] was issued to the assessee requiring the assessee to file his return of income for the relevant A.Y. However, assessee did not respond to the notices and the AO was constrained to issue notice u/s 144 of the Act

requiring the assessee to show cause as to why the entire deposit of Rs.10 lakhs should not be treated as unexplained money u/s 69A of the Act. The assessee filed a letter on 18.9.2019 submitting that he has retired as a Deputy Director [IES] during the year 2010 and the retirement benefits and pension which were deposited into his bank account were withdrawn for his day- to-day personal, family and medical expenses and with an intention of renovating his house, he had kept cash balance of accumulated withdrawals of Rs.10 lakhs over a period of 6 to 7 years and after announcement of de-monetization, he had to deposit the same into his bank account. It was further submitted that since the renovation of the house was not done, the said deposit of Rs.10 lakhs was immediately converted to F.D. on 23.112016 with SBI, EMI Centre branch, Secunderabad with an intention to make investment in an immovable property. He also enclosed a statement of computation of income, to the said reply.

2.1. On verification of the above details, the AO observed that assessee was withdrawing pension to meet his family expenditure and the contention of the assessee that the sum of Rs.10,00,000/- is the accumulated withdrawals over a period of 6 to 7 years is not acceptable and not convincing. He therefore treated the sum of Rs.10 lakhs as unexplained money u/s 69A of the Act and brought it to tax.

3. Aggrieved, assessee preferred an appeal before the CIT(A) stating that he had withdrawn a total of Rs.28,82,000/- from the day of retirement and has deposited only a sum of Rs.10 lakhs when the de-monetization was announced and this proves that the regular habit of assessee was to deposit and withdraw the sums which were not immediately required by assessee. The CIT(A), however, did not accept the assessee's contentions and confirmed the order of the AO and the assessee is in second appeal before the Tribunal by raising the following grounds of appeal.

"1. For easy comprehension, submissions in this appeal memorandum are made under different heading covering different aspects involved in the subject order:

a. Learned CIT(A) had erred by passing a Non-Speaking Order

b. Learned CIT(A) had erred by confirming the order passed by ITO under Section 144 of the Act

c. Learned CIT(A) had erred by confirming the additions made by ITO, where such additions are permitted neither under Section 68 nor under Section 69A of the Act

d. Learned CIT(A) had erred by confirming interest under Section 234A of the Act

In Re: Learned CIT(A) had erred by passing a Non-Speaking Order:

2. Appellant submits that from a bare perusal of the impugned order, it would be evident that the said order has been passed without assigning any specific reasons for confirming the demand. The observations made by Learned CIT (A) are routine in nature and non-speaking. The Learned CIT (A) has just extracted the submissions made by the Appellant to signify the same were being considered but has not in fact duly considered.

3. Appellant submits that for instance, Learned CIT (A) while dealing with submissions challenging additions under Section 68, none of the submissions were considered in true spirit. The Learned CIT (A) has proceeded with a made-up mind that the said amounts were justified to be added under Section 68. Appellant submits that the order passed in such a state has to be quashed and kept aside. Appellant further places reliance on the following judgments, wherein it was held it was fit to remand the matter when the submissions were not considered in entirety.

4. Appellant submits that in the absence of speaking order, vitiating the grounds raised and the merits of jurisprudence supplied in co-relation to the facts of the case, and in the absence of the grounds or reason for arriving such conclusion the impugned order is required to be quashed.

5. Appellant submits that the Learned CIT (A) has upheld the order passed under Section 144 stating that the compliance from the Appellant has been very poor.

6. Appellant submits that from the above, it is evident that Learned CIT (A) has confirmed the action of ITO in passing the order under Section 144 based on the compliance history. Appellant submits that the impugned order has confirmed the assessment under Section 144 only on the reason that a return has not been filed by the Appellant in pursuance to the notice issued under Section 142(1). In this connection, Appellant submits that a notice under Section 142(1) of IT Act was issued on 13.03.2018 asking to file the return of income for AY 2017-18 by 31.03.2018.

7. Appellant submits that by the time he became aware of the said notice, the due date fixed for filing the return has almost exhausted and accordingly he was unable to file the return in compliance with notice under Section 142(1). However, while replying to the notice issued by Learned Respondent, the Appellant has prepared a summary of statement of income and expenditure and submitted the same for the perusal of the Learned Respondent along with all other information that is required for the assessment.

8. Appellant submits that the Learned Respondent without considering the data available on the record has proceed to make an assessment under Section 144. Appellant submits that the said action of Learned Respondent is brought to the notice of Learned CIT (A), however, the same was not considered in the impugned order. The Learned CIT (A) has stated that the assessment under Section 144 is valid in law since the Appellant has filed to fail return in compliance with notice issued under Section 142(1) without taking into consideration the return filed along with the reply to show cause notice. Hence, Appellant submits that the action of Learned CIT (A) evidences that the impugned order is passed without appreciating the evidence and information on record. Hence, it is prayed that the order passed in such a state has to be quashed and set aside.

9. Without prejudice to the foregoing, Appellant submits that the entire approach of the Learned Respondent and Learned CIT (A) reveals the state of mind with which they have carried assessment and adjudication of the issue. Appellant submits that every procedure adopted in completion of the assessment is only to check the box and not adjudication of the real issue. Appellant submits that the order passed in such a state is to be quashed and prayed for an appropriate relief.

10. Without prejudice to the foregoing, Appellant submits that assuming that the action of the Learned Respondent and thereafter confirmation by Learned CIT (A) that the assessment is in accordance with the law, the impugned order requires to be set aside solely for the reasons that neither Learned Respondent nor Learned CIT (A) has examined the genuineness of the submissions made for deposit of money in the bank account.

11. Appellant submits that the above rationale squarely applies to the facts of the instant case and accordingly the impugned order is required to be set aside and prayed before Honourable Tribunal for an appropriate relief.

In Re: Learned CIT(A) had erred by confirming the additions made by ITO, where such additions are permitted neither under Section 68 nor under Section 69A of the Act:

12. Appellant submits that as stated in facts, he had been in employment with Indian Engineering Services (IES) and retired in the capacity of Deputy Director with MSME in 2010 and has been a regular taxpayer since few decades. At the time of retirement, he has received monetary retirement benefits to the tune Rs 15,77,369/- which were credited to his savings bank account of State Bank of India during the 2010. Further to the above, the Appellant was also in receipt of monthly pension and certain interest from balances in savings account held with various banks.

13. Appellant submits that the above was the only source of his income which was already subjected to tax vide withholding obligations. The salary, retirement benefits and pension were subjected to withholding obligations by the employer and interest is subjected to withholding obligations by the banker. Hence, all the incomes which were hit to the accounts of the Appellant were subjected to tax qua withholding obligations.

14. Appellant submits that since he is a senior citizen and frequently need of cash for meeting the daily expenses and emergency expenses and being a resident of area where digital payments are not accepted in routine manner, he used to withdraw the amounts from his tax suffered income which is lying in the credit of bank accounts. Appellant also has a plan of renovating his house and accordingly withdrawn certain amounts for meeting the expenses of labour payments and purchase of materials.

15. In light of the above reasons, Appellant was in habit of withdrawing the amounts on regular basis and accumulating them at home to meet the above-mentioned current and prospective expenditure. Appellant submits that the amounts are withdrawn from the savings, which has already suffered tax.

16. Appellant submits that amounts which were being withdrawn from the savings accounts over a period of 6 to 7 years were amounting to Rs 10,00,000/-. The withdrawals in the last few years has been increased with an intent to renovate the house. Appellant submits that a retired government employee having an accumulated savings of Rs 10,00,000/- over a period of 6 to 7 years is not abnormal and impugned order not being convinced is illogical and accordingly it is prayed to set aside the order.

17. Appellant submits that since the amounts which are deposited into saving banks account because of demonetisation, the same does not require any addition as contemplated by the impugned order.

18. In the light of the above judgement, Appellant submits that correlating to the facts of the case considering the age of the Appellant and also the total withdrawals made from the date of retirement itself are amounting to RS.28,82,000/- from which sum of Rs.10,00,00,000/- were accumulated over

a period of 6 years is not an abnormal thing, and so does not require any additions as confirmed by the impugned order.

19. Appellant submits that the impugned order has not considered any of the submissions in true spirit.

20. Appellant submits that from the above reproduced para, it is evident that the Learned CIT (A) has erred on multiple counts. Appellant submits that the impugned order has rejected the contention that the amounts were being withdrawn for the purposes of medical emergencies by stating that the appellant resides in densely populated locality which accepts digital payments and accordingly the said ground was dismissed. Learned CIT (A) has further reproduced the Google Maps to demonstrate that the said locality is densely populated.

21. In this connection, Appellant submits that the approach adopted by Learned CIT (A) is erroneous and completely devoid of merits. As stated in facts, the amounts were withdrawn over a period of 6 to 7 years and got accumulated to the extent of Rs 10,00,000/-. In other words, the withdrawals were for the period 2010 to 2016 and were deposited during the demonetization period. Accordingly, if the Learned CIT (A) wishes to demonstrate that the locality where the Appellant resides is densely populated or not, the Google Maps image should pertain to the period between 2010 and 2016 and not in Year 2020. Accordingly, the approach adopted by Learned CIT (A) fails since reliance is placed on the Google Maps of Year 2020. Appellant submits that no person would stop withdrawing money based on the infrastructure facilities which are going to be available in future. The withdrawals will be based on the situations based on the day on which withdrawal is made but not keeping in mind that there would be a facility in future.

22. Appellant further submits that the digital acceptance of payments has increased significantly only after the announcement of demonetization. Prior to such demonetization, digital payments in shops and establishments located in centre of the cities was a big challenge and the order assuming that the such payments in the locality where the Appellant resides as a routine feature is hypothetical and not real. Appellant further submits that Reserve Bank of India vide its publication dated 24th Feb 2020 dealing with 'Assessment of the progress of digitalisation from cash to electronic' stated in Para 8.3 as under: 8.3 India's growing use of retail digital payments, along with the radical reconstruction of its cash economy, indicates a shift in its relationship with cash. This is evidenced by the steep growth observed in the retail digital payments. Increasing acceptance and convenience of digital payments vis-a-vis

cash is also reflected in decrease in average value per digital payment transaction.

23. Appellant submits that from the above report of Reserve Bank of India and Table 23, it is evident that the increase in digital payments have increased over a period of time and were very nominal at the inception of 2015 and 2016. Appellant submits from the above, one can estimate the acceptability and readiness for businesses to accept digital payments during 2010 to 2016 and especially in the locality where he resides. Appellant submits that hence it is not as easy as the Learned CIT (A) states in his order with the help of Google Maps of Year 2020 to confirm that the businesses accept digital payments and there is no requirement to withdraw cash for meeting expenses. Hence, this evidences the presumption that the Learned CIT (A) carries to confirm the additions made by Learned Respondent.

24. Appellant further submits there is no penalty for businesses for accepting payments in cash till I" April 2017. Only from such date, a new provision was introduced vide Section 269 ST in the IT Act to penalise any person who shall receive an amount of Rs 2,00,000 or more in specified circumstances otherwise than by account payee cheque or an account payee bank draft or use of electronic clearing system. Even today, there is no penalty for accepting cash for payments which are less than Rs 2,00,000/-. Appellant submits that when there is no disincentive to accept cash payments till I" April 2017, it is only utopian world, that the payments will be accepted by the businesses that in the locality where the Appellant resides. The Learned CIT (A) passing an order imagining utopian world by ignoring the complete reality has to be kept aside and appropriate relief has to be granted.

25. Appellant submits that he has survived a heart attack and to meet such an emergency, he used to regularly withdraw every month certain amounts for immediate disposal. Appellant also submits that since there is no support from his immediate family in case of emergency, he made sure all the time a minimum amount is at his disposal for meeting any unforeseen medical emergencies. Appellant submits that his account always subjected to maximum daily withdrawal and it would be practically impossible to withdraw amounts when he would be hospitalised. Hence, Appellant made sure that he always had sufficient amount of money at his disposal to meet any medical emergencies.

26. Without prejudice to the foregoing, Appellant submits that the impugned order has stated that the Appellant has withdrawn money for purchase of immovable property and since the same can be made through bank or digital mode, the withdrawal is not necessitated. In this connection, Appellant submits that there was no submission that he has withdrawn money for purchase of

immovable property. The origin for this particular submission is unknown and accordingly requires to be set aside.

27. Appellant further submits that he has made a submission that there were withdrawals for renovation of house and since the same could not be carried out, the said amounts were deposited. Appellant submits that the said contention was rejected by Learned CIT (A) stating that the said payments can be made through online mode or bank. Appellant submits that even today there are no labours who would accept money through digital means for their daily works and considering the environment prevailing prior to demonetization, it is highly impossible to make payments to daily labourers in bank or digital means. The Learned CIT (A) observation on this also is devoid of the practical considerations. Accordingly, Appellant submits that the impugned order passed in such a stage requires to be set aside.

28. Without prejudice to the foregoing, Appellant submits that it is not an abnormal amount what was deposited in the bank account. The bank statements support the withdrawals and there is appropriate source for such withdrawals and accordingly the question of unexplained credits does not arise. Appellant submits that it is not an abnormal amount considering the fact that the Appellant was a retired Central Government employee. Appellant submits that the entire approach of Learned CIT (A) and Learned Respondent was with a state of mind to fix tax irrespective of the submissions made. Hence, it is prayed that the order passed in such a state has to be quashed.

29. Appellant further submits that the entire amount which has been withdrawn over the period of time for the reasons mentioned above was deposited in the bank account during demonetization. Post such deposit in the bank account, a fixed deposit is created for the same amount. Appellant submits that neither Learned Respondent nor Learned CIT (A) have not referred any evidence to support their contention that the said amounts were in the nature of unexplained investments. The creation of fixed deposits reveals that the amount was belonging to the Appellant and there is no scope for applicability of addition either under Section 69A or Section 69 or Section 68 or any other section.

30. In light of the above submissions, it is prayed before Honourable Tribunal to consider and pass an appropriate order granting an appropriate relief.

Notice under Section 68 and Order under Section 69A:

31. Without prejudice to the foregoing, Appellant submits that the Learned CIT (A) has upheld the additions made by the Learned Respondent under section 69A of the Act, by stating that the Learned Respondent has correctly quoted Section 69A while confirming the demand.

32. In this regard, Appellant wishes to submit that Learned CIT (A) has failed to understand the contentions raised before him. Appellant submits that the notice issued by Learned Respondent proposed to tax the deposits under Section 68. However, the order confirming the said proposal is made under Section 69A. This action of the Learned Respondent has brought to the notice of Learned CIT (A) praying that notice cannot be issued under one section and order confirming the notice cannot be in another section. This is against the principles of natural justice. However, the Learned CIT (A) has not considered the above submission and further ratified the action of Learned Respondent. Hence, it is prayed before the , Honourable Tribunal that the impugned order has to be set aside.

33. Without prejudice to the foregoing, assuming but not admitting that the action of Learned CIT (A) is in accordance with the law, Appellant wishes to submit that the Learned CIT (A) has failed to consider the main submissions wherein it was contended that there cannot be any addition under Section 69A for the reasons detailed hereunder. The reasoning of Learned CIT(A} is evident from the above para extracted from the impugned order, wherein he has stated that money of Rs 10,00,000/- is in his possession and accordingly a fit case for addition under Section 69A.

34. Appellant submits that the Learned CIT (A) has failed to apply the provisions of Section 69A in toto. The main ingredient of Section 69A is that the amount which is proposed to be added in light of Section 69A is not be recorded in books of account, if any maintained by Appellant. In other words, the Appellant submits that the possession of the funds/money is not only the important condition that is required to be satisfied to trigger addition under Section 69A, but such possession should also not be found in the books of accounts, if any maintained.

35. Appellant submits that the Learned CIT (A) has only applied part of the test as specified in Section 69A that is possession/ownership of the funds/money but has not examined the other part that is whether such possession/ownership is recorded in the books of accounts or not. Appellant submits that if the Learned CIT (A) has applied the remaining test also to the facts of the instant case, the result would have varied. Appellant submits that the said funds/money was deposited in bank account and can be safely stated to be recorded in books of accounts (assuming but not admitting that bank account is also forms part of books of accounts). Hence, Appellant submits that the above submissions reveals that the impugned order has been passed with a state of mind that the demand has to be upheld irrespective of the submissions made before the Learned CIT (A). Hence, order passed in such a state requires to be set aside.

36. Without prejudice to the foregoing, Appellant submits that assuming that bank account does not form part of books of accounts, even in such case, when the Appellant explains the reasons for the source of cash, then there cannot be any addition under Section 69A.

37. Appellant submits that from the above judgment, it is evident that, if the Appellant submits that the source of cash is explained and if it can be established that the cash found is withdrawn from the bank accounts, there could not be any addition under Section 69A. Appellant submits that the entire source for the said cash was explained in detail to the Learned Respondent which went unconsidered. The same was also brought to the attention of Learned CIT (A) stating that the said cash was withdrawn for the purposes of renovation of house and meeting the unplanned exigencies. However, as stated earlier, the same went unnoticed by the Learned CIT (A) also. Hence, it is prayed before the Honourable Tribunal to consider and order that there cannot be any addition under Section 69A for the reasons as submitted hereunder.

38. Without prejudice to the foregoing, Appellant submits that assuming but not admitting that the said deposits are not from the amounts withdrawn, even then the impugned order fails because the addition is proposed under Section 68. Appellant submits that the provisions of Section 68 are not applicable to him for the reasons as detailed hereunder.

39. Appellant submits that the provisions of Section 68 shall be applicable only if the assessee is required to maintain books of accounts.

40. Appellant submits that from the above, it is evident that only assessee who are obliged to maintain books of accounts under the provisions of IT Act are only subjected to the provisions of Section 68. In other words, if the assessee is not required to maintain books of accounts, then the provisions of Section 68 do not stand to apply. The Appellant submits that the bank statement cannot be held to be a book of account for the purposes of Section 68 and accordingly it is prayed before Honourable Tribunal that the impugned order to be set aside.

41. Appellant submits that the bank statement cannot be elevated to the status of books of account for the purposes of additions under Section 68.

42. Appellant submits in light of the above judgments, it is evident that the bank statements could not be equated with the books of accounts and accordingly the additions under Section 68 cannot be pressed into and prayed that the order has to be set aside. Appellant further submits that none of the above submissions were considered by the Learned CIT (A) and accordingly prayed that order passed in such a state has to be set aside.

43. Appellant further submits that when the cash deposits were made in the bank account were not found credited in the books of accounts maintained by the assessee, then the such additions cannot be made under Section 68 for the sole reason that the amounts deposited in bank accounts were made outside the books of accounts and such amount cannot be brought into the ambit of Section 68.

44. Without prejudice to the foregoing, Appellant submits that the assessing officer cannot act unreasonably, and his satisfaction that a particular transaction is not genuine must be based on relevant factors and on a just and reasonable inquiry.

45. Appellant submits that the order passed by Learned Respondent has confirmed the addition stating that the contention that the accumulated savings over a period of 6 to 7 years amounting to Rs 10,00,000/was found not convincing and Learned CIT (A) vide his impugned order found no mistake in such an action.

46. In this connection, Appellant submits that when he has retired in the capacity of Deputy Director after a service of decades and when he was in receipt of monthly pension, an amount of Rs 10,00,000/- as savings for a period of 6 to 7 years is not at all abnormal and assessing officer should have made proper enquiry before confirming such an addition. Further, the appellant has withdrawn an amount of Rs 28,82,000/- from the day of retirement and has deposited balance of Rs 10,00,000/- when the demonetisation was announced. This proves the regular habit of the appellant and assessing officer if applied his mind and made a proper enquiry, the addition looks unwarranted.

47. Without prejudice to the foregoing, Appellant submits that the Assessing Officer cannot just pass the Assessment Order stating the contention of the assessee is not convincing, which is nothing but an afterthought.

48. Appellant further submits that the addition of amounts under Section 68 on a mere suspicion is bad in law. The Learned Respondent has failed to show an appropriate evidence which substantiates that the amount deposited in the bank account is unexplained cash credits to proceed with assessment of such income. A mere suspicion would not make a cash credit as unexplained cash credit.

49. Appellant submits that all the above submissions were brought to the attention of the Learned CIT (A) and reiterated at the time of personal hearing. However, the impugned order nowhere discusses about all the above submissions and as a matter of routine upheld the order of Learned Respondent. Appellant prays before the Honourable Tribunal to consider the above submissions and grant an appropriate relief.

50. Appellant submits that in light of the above submissions the additions made under Section 68 based on bank statements and mere suspicion is illogical and requires to be set aside. Assuming that the provisions of Section 68 are applicable to the facts of the current case, since the appellant has provided nature and source of the amounts that were deposited in the bank account, the additions under Section 68 are required to be held as unwarranted.

51. Without prejudice to the foregoing, Appellant submits that the Honorable Visakhapatnam Tribunal in Dinsala Bala Murali vs Income Tax Officer Ward-I Palakol 2020 (8) TMI 592 has stated that the appropriate section under which an addition can be made pertaining to deposits in the bank account is u/s 69 and neither Section 68 nor Section 69A. Hence, the Appellant submits that if at all there arises an occasion to add the subject deposits, the same shall be under Section 69 and not as proposed under Section 68 nor as confirmed under Section 69A.

52. Without prejudice to the foregoing, Appellant submits that the impugned order has confirmed the interest under Section 234A amounting to Rs 2,24,800/-. The said interest was calculated by the Learned Respondent for a period of 29 months. The Learned Respondent has arrived the period of 29 months by considering the difference between the due date for filing of return for the period ended 3rt March 2017 as 31st July 2017 and date of completion of assessment under Section 144 as 07th December 2019.

53. However, Appellant submits that interest under Section 234A would arise only if there is an obligation to file a return under Section 139(1) of IT Act. This is evident from the provisions of Section 234A, the relevant provision is reproduced hereunder for ready reference:

(1) Where the return of income for any assessment year under sub-section (1) or sub-section (4) of section 139, or in response to a notice under sub-section (1) of section 142, is furnished after the due date, or is not furnished, the assessee shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period commencing on the date immediately following the due date, and,-

(a) where the return is furnished after the due date, ending on the date of furnishing of the return; or (b) where no return has been furnished, ending on the date of completion of the assessment under section 144 .

54. Appellant submits that from the above, it is evident that, the interest under Section 234A will trigger only when a return under Section 139(1) or Section 139(4) is furnished after the due date or is not furnished. In other words, the interest would be applicable only if the return is required to be filed under

Section 139(1). In this connection, Appellant submits that in case where a return is not required to be filed, then there would not be any interest applicability under Section 234A. Appellant submits that from the Assessment Year 2012-13, vide Notification No 9/2012 dated 17.02.2012, the Central Government has exempted the class of persons from filing the returns under Section 139(1) subject to certain conditions.

55. Appellant submits that the conditions as prescribed under Notification No 9/2012 dated 17.02.2012 are as under:

a. Individual whose total income for relevant assessment year does not exceed Rs 5 lakhs rupees

b. The total income should comprise of income chargeable under the heads 'salaries' and 'income from other sources'

c. The 'income from other sources' should contain only income from interest from a saving account in a bank, not exceeding Rs 10,000/-

d. The assessee has reported his PAN to his employer

e. The assessee has reported to his employer, interest incomes and employer has deducted tax. The assessee has received a certificate of tax deduction in Form 16 from his employer

g. The assessee has discharged his total tax liability for the assessment year through tax deduction at source and its deposit by the employer to the Central Government

h. The assessee has no claim of refund of taxes due to him for the income of the assessment year and

i. The assessee has received salary from only one employer for the assessment year

55. Appellant submits that in the instant case he has satisfied majority of the conditions stipulated vide the above Notification except for the fact that the interest income received from bank saving account is Rs 20,148/- (erroneously considered by the Learned Respondent as Rs 33,357/-). Since majority of the conditions were satisfied the Appellant was of the belief that a return of income for the period ended 31.03.2017 is not required to be filed and accordingly not filed. Appellant prays that in light of the fact that majority of the substantial conditions are satisfied by him and the interest was also subjected to tax deduction by the banker, the benefit of such notification shall be made applicable to him. In such a case, there would not be any obligation to file the

return under Section 139(1) and accordingly the interest under Section 234A would not trigger.

57. Appellant in light of the above submissions, if at all there is a liability under Section 234A, it would be from the due date for filing the return as a response to the notice under Section 142(1) but not the due date for filing the return under Section 139(1). As stated in facts, since the due date for filing the return in the notice under Section 142(1) is stated to be 31.03.2018, the interest under Section 234A will trigger only after 31.03.2018 and not prior to that. Appellant submits that, if the due date is taken as 31.03.2018 and date of completion of assessment as 07.12.2019, the interest under Section 234A shall be payable only for 20 months (01.04.18 to 07.12.2019) as against 29 months confirmed by the impugned order. Appellant submits that if the period of 20 months is considered, the interest liability shall be to the tune of Rs 1,55,034/- and accordingly prayed for consideration of the same towards interest.

Prayer Wherefore it is prayed:
a. The impugned order to be set aside
b. To hold that there are no additions under Section 69A
c. To hold that no interest under Section 234A is payable
d. Any other consequential relief to be granted."

4. Though the assessee has raised various grounds of appeal along with the above elaborate arguments in favour of his grounds, we find that the gist of his argument is that the assessee is an old aged person and has withdrawn the salary and pension amounts from time to time and had kept the funds with him to meet any exigency such as medical expenses, and also to renovate his house and due to announcement of de-monetization he had to deposit the same into his bank account Thus, according to ld. Counsel for the assessee, the source of funds had been explained and they are tax paid funds and no addition u/s 69A should have been made.

5. Ld.DR, on the other hand, supported the orders of the authorities below and submitted that it is not believable that any person would keep a sum of Rs.10 lakhs with him for a period of 6 to 7 years without any reason when he had accounts with various banks and he is in the practice of

withdrawing sums as and when necessary. Therefore, he prayed for confirmation of the addition.

6. Having regard to rival contentions and material placed on record, case laws cited, we find that the assessee is an old aged person and therefore it is acceptable that he would keep certain cash with him to meet his personal and medical exigencies. The source of income of the assessee is stated to be his pension which is regularly deposited into his bank accounts and as observed from the bank statements, as soon as the pension is deposited, the assessee is withdrawing certain part of it to meet his personal needs. Therefore, it cannot be accepted that the entire withdrawals are kept aside by him which have since been deposited by him. The assessee's argument that provisions of sec.69A are not applicable is also not acceptable because the assessee has not been able to explain the sources of the entire deposit of Rs.10 lakhs into his bank account on a single day i.e. on 19.11.2016 after the announcement of de-monetization in November, 2016. Therefore, in the interest of justice, the issue is set aside to the file of the A.O. with a direction to re-examine the issue and after allowing reasonable estimation of expenditure towards household & medical expenses, over the years, the balance of withdrawals are to be treated as explained and only the unexplained portion to be treated as income u/s 69A of the Act. The issue of interest u/s 234A is also remanded to the AO. For reconsideration.

7. In the result, the assessee's appeal is partly allowed for statistical purposes.

Order pronounced in Open Court on 13/09/2021.

Sd/-	Sd/-
(A. MOHAN ALANKAMONY)	**(P. MADHAVI DEVI)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Dated: 13th September, 2021

*gmv

Copy of Order forwarded to:

1. Sri Krishna Sri Ram, 6-3-9000/6-9, Flat # 103, 104, Veeru Castle, Sri Venkateswara Swamy Temple road, Durga Nagar Colony, Punjagutta, Hyderabad 500 082, Telangana.
2. ITO, Ward 13 (4), Hyderabad
3. ACIT, Range 13, Hyderabad
4. CIT(A)-4, Hyderabad
5. Pr.CIT – 4, Hyderabad.
6. D.R. ITAT Hyderabad
7. Guard File