

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC”“C”BENCH, BENGALURU**

Before Shri B.R. Baskaran, Accountant Member

ITA No.312/Bang/2022
(Assessment Year:2017-18)

Shri Ganesh Hebbar Panambur No.18, Midford Gardens C 603, Somerset Apartments M.GT. Road, Bangalore 560001	Vs.	The Income Tax Officer Ward - 1(2)(1) Bengaluru
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PAN -AFXPP9107M

Appellant

Respondent

Appellant by:	Shri Hemant Pai, CA
Respondent by:	Shri Ganesh R. Ghale, Advocate Standing Council for Revenue

Date of Hearing:	26.05.2022
Date of Pronouncement:	27.05.2022

ORDER

Per: B.R. Baskaran, A.M.

The assessee has fled this appeal against the order of the learned CIT(A), National Faceless Appeal Centre (NFAC), Delhi and it relates to AY 2017-18.

2. The assessee is aggrieved by the decision of the learned CIT(A) in confirming the addition of Rs.26,94,200/- relating to cash deposit into the bank account made by the assessee during demonetisation period, which was assessed by the AO under Section 69A of the Act.

3. I heard both the parties and perused the record. I noticed that the AO was constrained to complete the assessment order to the best of his judgement under Section 144 of the Income Tax Act, 1961 (hereafter "the Act"), since the assessee did not respond to the notices issued by the AO. Before the learned CIT(A) also, the assessee did not appear and hence the learned CIT(A) has dismissed the appeal confirming the addition made by the AO. Aggrieved the assessee has filed this appeal before the Tribunal.

4. The learned A.R. appearing for the assessee submitted that there was reasonable cause for the assessee in not appearing before the tax authorities. He submitted that the assessee's mother was sick and was residing in the native place. Hence the assessee was constrained to look after her in his native place. Hence the assessee could not attend to the income tax matters and accordingly did not appear before the AO and the CIT(A). The learned A.R. further submitted that the assessee's mother ultimately died on 12.12.2021 and thereafter only the assessee could consult his tax consultant and accordingly filed the present appeal. Accordingly the learned A.R. submitted that there was reasonable cause for not appearing before the tax authorities. Accordingly he prayed that the assessee may be provided with an opportunity to present his case before the tax authorities.

5. The learned D.R., on the contrary, submitted that the assessee has filed the appeal before the learned CIT(A) on 15.01.2020, i.e. almost two years prior to his mother's demise, meaning thereby, the assessee was aware of the income tax proceedings against him. However, the assessee chose not to appear before learned CIT(A). The learned D.R. further submitted that the medical certificate furnished by the assessee shows that his mother had fracture as per the medical certificate and the other diseases mentioned in the medical certificate are not of serious nature requiring constant medication attention. Accordingly the learned D.R. submitted that the assessee has not furnished proper reason for non-cooperating with the tax authorities. Accordingly the learned D.R. submitted that the order passed by the learned CIT(A) should be confirmed.

6. I heard the parties and perused the record. As submitted by the learned D.R., I noticed that the assessee's mother was suffering from some orthopaedic problems besides hypertension and allergic bronchitis. Further the assessee has filed his appeal before the learned CIT(A) on 15.01.2020, when his mother was sick and prior to her death. Hence it is not a case that the assessee could not have attended to his business and other works at all. Accordingly I find merit in the submission of the learned D.R. that there was no reasonable cause for the assessee in not appearing

before the tax authorities. At the same time, I notice that both the tax authorities have passed orders ex-parte, without hearing the assessee. Hence, in the interest of justice, I am of the view that the assessee may be provided with an opportunity to present his case properly before the tax authorities. Further, since the assessee was lethargic in attending to the notices issued by the tax authorities, I am of the view that the assessee should be imposed a cost for being delinquent. I accordingly impose a cost of Rs.5,000/- (Rupees Five thousand) upon the assessee, which shall be paid by the assessee to the credit of the Income Tax Department as 'other fees' within one month from the date of receipt of this order of the Tribunal by the assessee. Subject to payment of the above cost, I set aside the order passed by the learned CIT(A) and restore the issue to his file for examining the matter afresh. After providing adequate opportunity of being heard to the assessee, the learned CIT(A) may take appropriate decision in accordance with law.

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

Dictated and pronounced in the open Court on 27th May, 2022.

Sd/-
(B.R. Baskaran)
Accountant Member

Bengaluru, Dated: 27th May, 2022

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) -NFAC, Delhi*
4. *The CIT concerned*
5. *The DR, ITAT, Bengaluru*
6. *Guard File*

By Order

//True Copy//

Assistant Registrar
ITAT, Bengaluru

n.p.