

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD ' SMC ' BENCH, HYDERABAD.**

BEFORE SHRI RAMA KANTA PANDA, ACCOUNTANT MEMBER

ITA No.266/Hyd/2022 (Assessment Year : 2017-18)		
Shri Srinivas Shiva, Hyderabad. PAN ASBPS6194E	Vs.	Income Tax Officer, Ward 15(3), Hyderabad.
Appellant By :	Shri Pawan Kumar Chakrapani, CA	
Respondent By :	Ms. Reema Yadav(D.R.)	
Date of Hearing :	08.08.2022	
Date of Pronouncement :	10.08.2022	

O R D E R

This appeal filed by the assessee is directed against the exparte order dt.10.05.2022 passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi relating to Assessment Year 2017-18.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the order by the learned CIT (Appeals), NFAC in sustaining the

addition of Rs.10 lakhs made by the Assessing Officer u/s. 69A of the Income Tax Act, 1961 (in short 'the Act').

3. Facts of the case, in brief, are that the assessee is an individual and had not filed his Return of Income for the impugned assessment year. It was noticed by the Assessing Officer that the assessee has made cash deposit of Rs.10 lakhs in his Bank Account No.541001010050107 held with Union Bank of India, A.S. Rao Nagar Branch during the demonetisation period. Since there was no response to the notice issued u/s. 142(1) calling for return, the Assessing Officer provided another opportunity to the assessee for compliance to the notice issued u/s. 142(1) of the Act. However, again there was no response from the side of the assessee. The Assessing Officer obtained information u/s. 133(6) of the Act from Union Bank of India. It was observed from the statement supplied by the Union Bank of India that the assessee is proprietor of M/s. Rama bakers and made cash deposit of Rs.10

lakhs in the above account. In absence of any compliance from the side of the assessee, the Assessing Officer completed the assessment u/s. 144 of the Act and made addition of Rs.10 lakhs u/s. 69A of the Act.

3.1 In appeal, in absence of any response from the side of the assessee, the learned CIT (Appeals), NFAC upheld the action of the Assessing Officer.

3.2 Aggrieved with the order of learned CIT (Appeals), NFAC, the assessee is in appeal before the Tribunal.

4. The learned counsel for the assessee submitted that despite an adjournment letter filed requesting adjournment of the case, the learned CIT (Appeals), NFAC proceeded to decide the appeal on the basis of material available on record. He submitted that since no opportunity whatsoever was provided to the assessee by the learned CIT (Appeals), NFAC, therefore in the interest of justice, the assessee should be given an opportunity to present his case.

5. The learned Departmental Representative, on the other hand, strongly opposed the arguments advanced by the learned counsel for the assessee. He submitted that before the Assessing Officer the assessee did not appear for which an ex parte order has been passed u/s. 144 of the Act. Even before the learned CIT (Appeals) also, the assessee did not appear. She accordingly submitted that the order of the learned CIT (Appeals) be upheld.

6. I have heard the rival arguments made by both the sides and perused the material on record. It is an admitted fact that due to non-compliance to the statutory notices issued by the Assessing Officer, he completed the assessment u/s. 144 of the Act determining the total income of the assessee at Rs.10 lakhs wherein he made addition of Rs.10 lakhs u/s. 69A of the Act being the cash deposit in the Bank Account maintained with Union Bank of India during the demonetization period. I find the learned CIT (Appeals),

NFAC sustained the addition made by the Assessing Officer due to non-filing of any submission nor seeking any adjournment on the date of hearing. It is the submission of the learned counsel for the assessee that an adjournment letter was filed, however, the same was not considered. Further it is also his submission that given an opportunity, the assessee is in a position to substantiate the source of cash deposit of Rs.10 lakhs in the bank account maintained with UBI. 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 learned CIT (Appeals) with a direction to grant one final opportunity to the assessee to substantiate his case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the learned CIT (Appeals) and explain his case without seeking any adjournment under any pretext failing which the learned CIT (Appeals) is at liberty to pass appropriate order as per law. I hold and direct accordingly. The grounds

raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the open court on 10th Aug., 2022.

Sd/-

Hyderabad,

Dated .08.2022.

* Reddy gp

Copy to :

(RAMA KANTA PANDA)

Accountant Member

1.	Shri Srinivas Shiva, H.No.7-214,/1, South Kamala Nagar,ECIL Post, Hyderabad.
2.	ITO, Ward 15(3), Hyderabad.
3.	CIT(Appeals), National Faceless Appeal Centre (NFAC), Delhi.
4.	DR, ITAT, Hyderabad.
5.	Guard File.

By Order

Sr. Pvt. Secretary, ITAT, Hyderabad.