

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

Before Shri R.K. Panda, Accountant Member
AND
Shri K. Narasimha Chary, Judicial Member

ITA No.224/Hyd/2022		
Assessment Year: 2017-18		
Shri Arun Raj Goud Balogoni, Hyderabad PAN:BBGPG5930F	Vs.	A.C.I.T Central Circle 4(1) Hyderabad
(Appellant)		(Respondent)
Assessee by:	Shri P. Vinod, Advocate	
Revenue by:	Shri Kumar Aditya, (DR)	
Date of hearing:	25/08/2022	
Date of pronouncement:	26/08/2022	

ORDER

Per R.K. Panda, A.M

This appeal filed by the assessee is directed against the order dated 26.03.2022 of the learned CIT (A)-NFAC Delhi relating to A.Y.2017-18.

2. There is a delay of 2 days in filing of this appeal for which the assessee has filed a condonation application alongwith an affidavit explaining the reasons of delay. After going through the contents of the condonation application filed along with the affidavit and after hearing the learned DR, the delay in filing of this appeal by 2 days 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 dismissing the appeal for non-appearance and thereby sustaining the addition of Rs.5,12,51,697/- made by the Assessing Officer.

4. Facts of the case, in brief, are that the assessee is an individual and engaged in running a bar-cum-restaurant in the name and style of Sri Sai Restaurant & Bar. He is also partner in Sai Durga Restaurant & Bar and Sri Sai Restaurant & Bar. The assessee filed his return of income on 13.2.2018 declaring total income of Rs.23,67,440/-. The case was selected for scrutiny through CASS. During the course of assessment proceedings, the Assessing Officer noted that the assessee has made cash deposit of Rs.10,11,25,995/- in various bank accounts maintained by him. He, therefore, asked the assessee to substantiate the same by explaining the source of such cash deposits. Since the assessee did not file complete details along with supporting evidences as called for, the Assessing Officer after verification of the details accepted part of the cash deposits made in the Bank A/c as out of sales as per P&L A/c and the opening balance as on 1.4.2016 and accordingly, made addition of Rs.5,12,51,697/- to the total income of the assessee.

5. Since the assessee did not respond to the statutory notices issued by the learned CIT (A)-NFAC, the learned CIT (A)-NFAC dismissed the appeal for non-compliance.

5.1 Aggrieved with such order of the learned CIT (A)-NFAC, the assessee is in appeal before the Tribunal.

6. We have heard the rival arguments made by both sides and perused the record. It is an admitted fact that the learned CIT (A)-NFAC issued two notices to the assessee asking the assessee to file details in support of the grounds of appeal. However, since the assessee did not respond to the two statutory notices issued by the office of the learned CIT (A)-NFAC, the learned CIT (A)-NFAC in the ex-parte order passed by him dismissed the appeal filed by the assessee on the ground that the assessee is not interested in pursuing his appeal. However, the learned CIT (A)-NFAC has not decided the appeal on merit. As per provisions of section 250(6), the order of the CIT (A) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision. However, as mentioned earlier, the learned CIT (A)-NFAC has not decided the appeal on merit by passing a speaking order as per the provisions of section 250(6) of the Act. Therefore, considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the learned CIT (A)-NFAC with a direction to grant one final opportunity to the assessee to substantiate his case and decide the issue as per fact and law by passing a speaking order. The assessee is also hereby directed to participate in the appeal proceedings before the learned CIT (A)-NFAC by filing requisite details/submissions without seeking any adjournment under any circumstances failing which the learned CIT (A)-NFAC is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the Open Court on 26th August, 2022.

Sd/- (K. NARASIMHA CHARY) JUDICIAL MEMBER	Sd/- (R.K. PANDA) ACCOUNTANT MEMBER
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Hyderabad, dated 26th August, 2022.

Vinodan/sps

Copy to:

S.No	Addresses
1	Shri Arun Raj Goud Balagoni, 1-8-3-27 Chikkadapally, Hyderabad 500020
2	Asstt. CIT, Circle 4(1) IT Towers, AC Guards, Masabtank, Hyderabad 500004
3	CIT (A)-NFAC, Delhi
4	Pr. CIT- , Cntral, Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order