

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCHES "C", BANGALORE**

**Before Shri George George K, JM & Shri Laxmi Prasad Sahu, AM**

ITA No.1028/Bang/2022 : Asst.Year 2012-2013

Sri.Aneesh Singhal 46/4, 3 <sup>rd</sup> Floor, Novel tech Park Garvebhavi Palya, Kudlu Gate Hosur Road, Bangalore – 560 068. <b>PAN : AEOPS9937G.</b>	v.	The Income Tax Officer Ward 4(1)(2) Bangalore.
(Assessee)		(Respondent)

Assessee by : Sri.Sandeep Chalapathy, CA  
Respondent by : Smt.Priyadarshini Baseganni, Addl.CIT-DR

<b>Date of Hearing : 07.12.2022</b>	<b>Date of Pronouncement : 07.12.2022</b>
-------------------------------------	---

**ORDER**

**Per George George K, JM :**

This appeal at the instance of the assessee is directed against CIT(A)'s order dated 01.09.2022. The relevant assessment year is 2012-2013.

2. The brief facts of the case are as follows:

The assessee is an individual. For the relevant assessment year 2012-2013, the assessee did not file return of income u/s 139(1) of the I.T.Act and there was huge cash deposits in various bank accounts of the assessee, hence, notice u/s 148 of the I.T.Act was issued requiring the assessee to file return of income. The assessee did file return of income nor did he respond to the notices and proposals issued by the Assessing Officer. Therefore, the assessment was completed u/s 144 r.w.s. 147 of the I.T.Act, vide order

dated 15.11.2019. In the said assessment order, the A.O. estimated the income at 8% of the total cash deposits amounting to Rs.1,47,44,500 and other credits by cheque / RTGS amounting to Rs.6,18,02,670. Accordingly, the income was estimated at Rs.61,23,770 (8% of Rs.1,47,44,500 + 6,18,02,670).

3. Aggrieved, the assessee filed appeal before the first appellate authority. Before the first appellate authority, the assessee raised grounds with regard to the merits as well as validity of reopening of assessment. The appeal before the first appellate authority was fixed on four occasion for furnishing online submission. Since there was no submission made by the assessee, the CIT(A) decided the matter *ex parte*. The CIT(A) after having condoned the delay of 5 days in filing the appeal, rejected the grounds raised by the assessee with reference to the reopening of assessment as well as on merits.

4. Aggrieved by the order of the CIT(A), the assessee has filed the present appeal before the Tribunal. The assessee had raised 5 grounds including its sub-grounds. However, during the course of hearing, the grounds, namely, ground 4 and sub-grounds regarding the validity of reassessment was not pressed, hence, the same is rejected. The surviving grounds, namely, ground 1 to 3 and 5, read as follows:-

*“1. That the order of the learned Commissioner of Income-tax (Appeals) in so far it is prejudicial to the interests of the appellant is bad and erroneous in law and against the facts and circumstances of the case.*

2. *That the learned Commissioner of Income-tax (Appeals) erred in law and on facts in deciding the appeal ex-parte even though the appellant has sought for time in response to the notices.*

3. *That the learned Commissioner of Income-tax (Appeals) ought to have provided some time to the appellant as some of the notices were issued during COVID-19 breakdown in the country and the e-proceedings were at the initiation stage where the appellant was unaware of the procedure of appeal proceedings.*

4. ....

5. *Estimation of income*

5.1 *That the learned lower authorities erred in law and on facts in holding that the appellant has business income of Rs.61,23,770/- even though the appellant's income does not even exceed the taxable limit."*

5. The learned AR submitted that due to Covid-19 period, the details with regard to the cash deposits could not be collected and has sought time on each of the occasions. However, the CIT(A) without granting time for furnishing the assessee's submissions, dismissed the appeal *ex parte*. The assessee has filed a paper book of five pages, enclosing therein the acknowledgement of adjournment letter seeking time for furnishing of the submissions. The learned AR stated that the CIT(A) has erred in deciding the appeal *ex parte*. It was further stated that the e-proceedings were at the initiation stage and the assessee was unaware of the procedure of appeal proceedings. Therefore, it was prayed that the matter may be restored to the files of the A.O. for the assessee to make a proper representation with reference to the estimation of income.

6. The learned Departmental Representative strongly supported the orders of the A.O. and the CIT(A).

7. We have heard rival submissions and perused the material on record. The assessment in this case has been completed u/s 144 r.w.s. 147 of the I.T.Act on a best judgment basis on account of non-cooperation on the part of the assessee. Before the first appellate authority, the case was fixed for online submission on four occasions. Since the written submissions were not furnished, the CIT(A) dismissed the appeal of the assessee *ex parte*. We strongly deprecated the non-cooperation on the part of the assessee and non-furnishing the submissions before the first appellate authority. However, in the interest of justice and equity, we are of the view that one more opportunity should be granted to the assessee to furnish the necessary details in support of his case. Accordingly, we restore the matter to the files of the A.O. for *de novo* consideration of the issues raised on merits. The assessee is directed to cooperate with the A.O. and shall furnish the necessary evidences in support of his case. The A.O. shall afford a reasonable opportunity of hearing to the assessee before a decision is taken in the matter. It is ordered accordingly.

8. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced on this 07<sup>th</sup> day of December, 2022.

**Sd/-**  
**(Laxmi Prasad Sahu)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(George George K)**  
**JUDICIAL MEMBER**

Bangalore; Dated : 07<sup>th</sup> December, 2022.  
Devadas G\*

Copy to :

1. The Assessee.
2. The Respondent.
3. The CIT, NAFC, Delhi
4. The Pr.CIT, Bangalore.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore