

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "SMC", HYDERABAD

BEFORE SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 722/Hyd/2022  
(निर्धारण वर्ष / Assessment Year: 2017-18)

Kotra Supriya, Vs. Income Tax Officer,  
Dhone Ward-1,  
Kurnool District Kurnool  
[PAN No. DIVPS2160B]

अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा / Assessee by: Shri M. Vijay Kumar, AR  
राजस्व द्वारा / Revenue by: Shri Y. Sessa Srinivas, DR

सुनवाई की तारीख/Date of hearing: 25/01/2023  
घोषणा की तारीख/Pronouncement on: 25/01/2023

आदेश / ORDER

Aggrieved by the order dated 19/10/2022 passed by the learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Kotra Supriya ("the assessee") for the assessment year 2017-18, assessee preferred this appeal.

2. Assessee filed this appeal with a delay of two days. According to the assessee, she being the house wife could not file the appeal within the time as it escaped her attention. Since the delay is only of two days, and the assessee does not stand to gain by preferring the appeal with a delay of two days, learned DR fairly concedes to condone the delay. I accordingly condone the delay and proceed to hear the appeal on merits.

3. Assessee is primarily aggrieved by the fact that the impugned order has been passed by the learned CIT(A), without affording a reasonable opportunity to her. Brief facts of the case are that during the assessment proceedings, learned Assessing Officer noticed that the assessee deposited Specified Bank Notes (SBN) worth Rs. 31,09,500/- with the bank during the demonetization period and on verification, it was found that there was a clerical error in respect of about Rs. 2,13,500/- and, therefore, according to the learned Assessing Officer, a sum of Rs. 28,96,000/- remains unexplained. According to the assessee, it could be found from their books that as on the date of announcement of demonetization, there was a cash balance available in the hands of the assessee and the remaining is also properly explained before the learned Assessing Officer. Learned Assessing Officer, however, did not accept the contention of the assessee and while adverting to the provisions of section 23 of the Indian Contracts Act, 1872 and section 26 of the Reserve Bank of India Act 1934, he reached a conclusion that depositing SBN into bank is liable to be added to the income of the assessee under section 69A of the Income Tax Act, 1961 (for short "the Act").

4. In the impugned order, learned CIT(A) noted that the assessee was issued notices on four occasions fixing the date of hearing and in spite of sufficient opportunity, the assessee failed to avail the same thereby compelling the first appellate authority to proceed ex parte and after appreciating the facts available on record, learned CIT(A) dismissed the appeal.

5. It is submitted by the learned AR today that due to the pandemic prevailing during the most part of the period under the first appellate proceedings, the communication between the assessee and her counsel was disrupted and she could not make effective communication with the counsel and, therefore, not having correct information about the dates of hearing, she could not prosecute the appeal diligently. Learned AR

submitted that assessee has got a strong case to establish the facts before the first appellate authority, but, because of this disruption of the communication between the assessee and the counsel, the assessee could not prosecute the appeal diligently and, therefore, given an opportunity, the assessee will appear before the learned CIT(A), to submit all the material available at her custody and get the matter disposed-of on merits.

6. Per contra, learned DR vehemently opposed the request made on behalf of the assessee, stating that even subsequent to the end of pandemic, three notices were issued to the assessee and last notice being 04/10/2022. According to learned DR having preferred the appeal, it is for the assessee to make diligent efforts to get the matter disposed of on merits.

7. I have gone through the record in the light of the submissions made on either side. It is a fact that within three months from passing of the assessment order, the pandemic ensued and lasted for about two years. Grievance of the assessee is that due to this pandemic, her regular touch with the counsel was lost and as a matter of fact, she did not have the intimation about the dates of hearing so as to prompt the counsel also. Though the learned CIT(A) proceeded with the material available on record to dispose of the appeal, the fact remains that it is only an ex parte order and the assessee could not avail sufficient opportunity to put forth her case diligently.

8. In this set of circumstances, what occurs to my mind is that giving an opportunity to the assessee to pursue the matter diligently before the first appellate authority will not cause any prejudice to the case of the Revenue and on the other hand, it would further the ends of justice. With this view of the matter, I set aside the impugned order and restore the issue to the file of learned CIT(A) to dispose of the same on merits, after affording an opportunity of being heard to the assessee. I make it clear

that this is the final opportunity to the assessee to get the matter disposed of the case on merits by prosecuting the appeal diligently.

9. In the result, appeal of the assessee is treated as allowed for statistical.

Order pronounced in the open court on this the 25<sup>th</sup> day of January, 2023.

Sd/-  
**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

Hyderabad,  
Dated: 25/01/2023

TNMM

Copy forwarded to:

1. Kotra Supriya, D.No. 14-95-1, Manikya Vasavi Traders, Pathapet, Dhone, Kurnool District.
2. Income Tax Officer, Ward-1, Kurnool.
3. NFAC-Delhi.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ASSISTANT REGISTRAR  
ITAT, HYDERABAD