

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH: BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.1116/Bang/2022
Assessment Year: 2017-18

Pillappa Seshakumar 27, 4 th Cross N.R. Road Bengaluru 560 002 PAN NO : ABJPS4064Q	Vs.	ACIT Circle-5(2)(1) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Shri J.V. Kodandapani, A.R.
Respondent by	:	Shri K. Sankar Ganesh, D..

Date of Hearing	:	11.01.2023
Date of Pronouncement	:	11.01.2023

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal by the assessee is directed against order of CIT(A)/NFAC, Delhi dated 22.11.2022 for the assessment year 2017-18. The assessee has raised various grounds on merit on additions made by the AO sustained by the Id. CIT(A) with regard to cash deposit of Rs.2,77,11,302/- into assessee's bank account with Canara Bank. The assessee has also raised grounds with regard to passing of ex-parte order by AO as well as by Id. CIT(A) without giving proper opportunity of hearing to the assessee.

2. Facts of the issue are that the assessee filed return of income for the assessment year 2017-18 on 27.10.2017 declaring income of

Rs.69,45,410/-. The case was selected for limited scrutiny through CASS to verify the cash deposit into bank account during the demonetization period. Various notices of hearing were issued to the assessee for which assessee neither appeared before the AO nor filed any submissions explaining the source of deposit of cash of Rs.2,77,11,302/-. In view of this, the AO has passed ex-parte order making an addition of Rs.2,77,11,302/- on account of cash deposit into assessee's bank account with Canara Bank. Against this assessee went in appeal before the Id. CIT(A)/NFAC who has given the notices of hearing as below:

Date of issue of notice	Date of compliance fixed
25.12.2020	09.01.2021
05.04.2021	20.04.2021
26.07.2021	10.08.2021
06.09.2022	21.09.2022

2.1 There was no response from the assessee. Finally, the CIT/NFAC passed ex-parte order confirming the addition made by the AO. Against this assessee is in appeal before us.

2.2 At the outset, the Id. A.R. submitted that assessee was not well educated. He was not well-versed with the taxation matters and he was entirely dependent upon the Professionals i.e. Chartered Accountants and Advocates to handle his case before the AO as well as CIT(A)/NFAC. The assessee was in the impression that his consultants are attending the assessment as well as appeal proceedings before the authorities and he handed over all the relevant papers along with Vakalat to them who has not taken any steps to represent the assessee before the lower authorities and whenever assessee enquired with them, they gave one or other reason stating that they are taking steps to represent assessee's case before the lower authorities and the assessee came to know about the

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passing of order only when he received the ex-parte order of CIT(A)/NFAC on 22.11.2022. It was submitted by the ld. A.R. that the non-submission of relevant documents before the lower authorities or non-appearing before lower authorities was on account of failure of the assessee's counsel and not because of the assessee as assessee was in bonafide belief that his Advocate/CA will take requisite steps to defend the assessee's case. Finally, he prayed that one more opportunity of hearing may be given to the assessee to represent assessee's case before the lower authorities.

3. On the other hand, the ld. D.R. submitted that the assessee has deliberately failed to submit necessary documents before the lower authorities and the assessee's case may be decided on merit instead of remitting the issue back to the lower authorities.

4. We have heard the rival submissions and perused the materials available on record. The assessee in this case, being a Senior citizen subject to various medical complications. The assessee has handed over the case to his CA who has been handling the assessee's case since long time and due to some misunderstanding, they have not taken proper steps to represent assessee's case before the lower authorities and in our opinion, the assessee had bonafide belief that they are taking steps to represent assessee's case before the lower authorities who has failed, which resulted in passing of ex-parte order by AO as well as ld. CIT(A)/NFAC for which the assessee cannot be penalized. Being so, in the interest of justice, it is appropriate to remit the entire issue in dispute to the file of AO for reconsideration and the assessee shall cooperate with the AO and file all the requisite documents in support of the assessee's case and the AO has to decide the case after giving fair opportunity of hearing to the assessee in accordance with law. At this stage, we refrain from adjudicating the grounds of appeal on

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merit relating to sustaining addition of Rs.2,77,11,302/-, which is kept open.

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

Order pronounced in the open court on 11th Jan, 2023

Sd/-
(Beena Pillai)
Judicial Member

Sd/-
(Chandra Poojari)
Accountant Member

Bangalore,
Dated 11th Jan, 2023.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.