

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad**

**Before Shri Rama Kanta Panda, Accountant Member
AND
Shri Laliet Kumar, Judicial Member**

ITA.No.710/Hyd/2022		
Assessment Year: 2017-18		
Banoth Kaviha, Hyderabad. PAN : BAGPK8029N.	Vs.	Income Tax Officer, Ward – 9(4), Hyderabad.
(Assessee)		(Respondent)
Assessee by:		Shri P. Vinod appeared for Advocate Shri T. Chaitanya Kumar.
Revenue by:		Shri Adithya Kumar
Date of hearing:		01.03.2023
Date of pronouncement:		14.03.2023

ORDER

PER LALIET KUMAR, J.M.

This appeal is filed by the assessee, feeling aggrieved by the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 28.09.2022 for the AY 2017-18 on the following grounds :

“1. The order of the Assessing Officer is erroneous both on facts and in law.

2. The Assessing Officer erred in passing order u/s 144 of the I.T act without giving any further opportunity.

3. The Assessing Officer erred in passing order u/s 144 of the I.T act on the basis of bank account transactions without giving any proper opportunity.

4. The Assessing Officer erred in treating entire transactions of the assessment year an amount of Rs.92,15,180/- as income of the appellant.

5. The assessing Officer ought to be considered the fact that the transactions pertains business activity only.

6. The Assessing Officer erred in treating an amount of Rs 36,08,180/- as income of the appellant, and further erred in taxing the same on special income taxed at 115BBE of the I.T act.

7. The Assessing Officer erred in applying the provisions u/s 115BBE determining the total tax payable at Rs1,16,14,800/- without giving any further opportunity.

8. The Assessing Officer erred in determining the total income at Rs 92,15,180 against the in come admitted of Rs 6,22,190 /-. without giving any further opportunity.

9. The assessing officer erred in charging interest u/s 234A 20,79,184/- and 234B of Rs23,65,968/-.

2. The appeal filed by the assessee is barred by limitation by 09 days. He has moved a condonation petition explaining reasons thereof. We have heard both the parties on this preliminary issue. Having regard to the reasons given in the petition, we condone the delay and admit the appeal for hearing.

3. Facts of the case, in brief, are that the assessee was found to have deposited Rs.27,66,090/- in her bank account No.30391967874 and Rs.64,49,090/- in account no.33915574133 with State Bank of India, Bhootpur during the period from 09.11.2016 to 30.12.2016. As the income tax profile of the assessee did not match with the amount of cash deposited and also did not file her return of income for A.Y. 2017-18 with due date u/s 139(1) of the Act, the case of the assessee was selected for issuing notice u/s 142(1) of the Act and the said notice was served on 05.12.2017.

Even after grant of several opportunities, assessee failed to comply the notices and failed to furnish the required information sought for. During the course of assessment proceedings, notice u/s 133(6) of the Act was issued to the Branch Manager, State Bank of India, Bhoothpur. However, the account statement and other details have not been received. Due to non-compliance, finally, assessment was completed ex-parte u/s 144 of the Act interalia by making addition of total cash deposits of Rs.92,15,180/- u/s 69A of the Income Tax Act, 1961 and also initiated penalty proceedings.

4. Feeling aggrieved with the order of Assessing Officer, assessee carried the matter before ld.CIT(A), who dismissed the appeal of assessee on account of non-prosecution and on merits.

5. Feeling aggrieved with the order of ld.CIT(A), assessee is now in appeal before us.

6. Before us, ld.AR submitted that the learned lower authorities have decided the issue without considering the explanation offered by the assessee and that assessee failed to appear due to unavoidable circumstances. Ld.AR further submitted that as the assessee has sufficient cause from putting in appearance before the ld.CIT(A), matter may kindly be remitted back to the authorities below for afresh adjudication.

7. Per contra, the ld.DR has raised objection for remanding the matter back to the file of lower authorities.

8. We have heard the rival submissions and perused the material on record. The Assessing Officer in Para 5 held that though the assessee was also asked to explain as to why assessment in her case should not be completed *exparte* by treating the entire cash deposits in her bank account as unexplained, however, she failed again to comply with notices issued and hence, he completed the assessment u/s 144 of the Act. Subsequently, the assessee carried the matter before the Id.CIT(A), who had issued notice u/s 250 of the Act calling for the details in support of her grounds of appeal. However, issuance of two notices, assessee failed to furnish any explanation to substantiate the deposit of the amounts made in the bank account, which were opened by her during the period from 09.11.2016 to 30.12.2016. Having faced with the above situation, Id.CIT(A) / NFAC had passed on order confirming the addition made by the Assessing Officer.

9. In light of the above, though, invariably the appeal of the assessee is required to be dismissed on account of non-furnishing of documents, however, considering the totality of the facts and circumstances, and more particularly, the assessee to be a housewife, one more opportunity is granted to the assessee to appear and contest the case before the Id.CIT(A). Hence, we remand back the appeal to the file of Id.CIT(A) with a liberty to grant one more opportunity to the assessee to prove her case subject to payment of Rs.2,000/- (Rupees Two Thousand only) to be deposited in favour of Prime Minister National Relief Fund which shall be payable within one month or from the date of receipt of this order or whichever is earlier. On the date of hearing fix by the Id.CIT(A), the assessee shall file all the documents / evidence in support of her case and in

that eventuality, the ld.CIT(A) shall call for the remand report from the Assessing Officer. In case, the assessee failed to file any documents in support of her case, ld.CIT(A) shall decide the matter in accordance with the law. Accordingly, the appeal of assessee is allowed for statistical purposes.

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

Order pronounced in the Open Court on 14th March, 2023.

Sd/-

Sd/-

(RAMA KANTA PANDA) ACCOUNTANT MEMBER	(LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 14th March, 2023.

TYNM/sps

Copy to:

S.No	Addresses
1	Banoth Kavitha, C/o. T.Chaitanya Kumar, Advocate, Flat No.102, Gowri Apartments, URDU Lane, Himayatnagar, Hyderabad.
2	Income Tax Officer, Ward 9(4), Hyderabad.
3	DR, ITAT Hyderabad Benches
4	Guard File

By Order