

**IN THE INCOME TAX APPELLATE TRIBUNAL  
Hyderabad ‘ SMC ‘ Bench, Hyderabad**

**BEFORE**

**SHRI LALIET KUMAR, JUDICIAL MEMBER**

ITA No.115/Hyd/2023		
Assessment Year: 2017-18		
Hanuman Surya Sagar Soma, Warangal.	Vs.	ITO, Ward-1, Warangal.
PAN : BIAPS1111D		
(Appellant)		(Respondent)
Assessee by:		Sri Bhanu Narayana Rao, CA.
Revenue by:		Sri Waseem UR Rehman.
Date of hearing:		20.03.2023
Date of pronouncement:		20.03.2023

**ORDER**

**PER LALIET KUMAR, J.M.**

The appeal of the assessee for A.Y. 2017-18 arises from the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dt.15.12.2022 invoking proceedings under section 144 of the Income Tax Act, 1961 (in short, “the Act”).

2. The grounds raised by the assessee read as under :

*“1. On the facts and in the circumstances of the case, the order of the Learned CIT (Appeals), National Faceless Appeals Centre, Delhi is erroneous and bad in law to the extent it is prejudicial to the Appellant.*

2. *On the facts and in the circumstances of the case, the learned CIT (A), NFAC, Delhi erred by passing ex-parte orders on 15.12.2022 itself though' the Appellant had filed for adjournment on 07.12.2022 seeking time till 20.12.2022 on medical grounds to furnish the details which is against the principles of natural justice.*

3. *On the facts and in the circumstances of the case, the Learned CIT (Appeals), National Faceless Appeals Centre, Delhi erred by confirming the orders of the A.O. who jumped to the conclusion that the Appellant failed to furnish documentary evidence for the explanations given by him for the cash deposits made during the demonetization period and other period during the year relevant for the Asst. Year 2017-18 and hence the addition of Rs. 47,01,320/- made U/s.69A of the Income Tax Act, 1961,needs to be deleted.*

4. *On the facts and in the circumstances of the case, the learned CIT (Appeals), National Faceless Appeals Centre, Delhi erred by confirming the orders of the AO in invoking the provisions of Section 69A of the Income Tax Act, 1961 even after the appellant has given explanation for the amounts deposited by him.*

5. *On the facts and in the circumstances of the case, the learned CIT (Appeals), National Faceless Appeals Centre, Delhi failed to appreciate the fact that the cash deposits of Rs.2,32,000/- was out of Appellant's accumulated savings, Rs.6,50,000/- was out of accumulated savings of his spouse who worked as Head Mistress of Government school, Bhupalpally, Rs.3,00,000/- was out of savings of his daughter who was working in a reputed private organization and Rs.2,39,000/- were out of savings of his aged mother-in-law accumulated over several years. Hence the above additions need to be deleted.*

6. *On the facts and in the circumstances of the case, the learned CIT (Appeals), National Faceless Appeals Centre, Delhi erred by levying tax U/s.115BBE of the Income Tax Act, 1961.”*

3. The appeal filed by the assessee is barred by limitation by 03 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, I condone the delay and admit the appeal for hearing.

4. Facts of the case, in brief, are that on the basis of the data analytics and information gathered during the phase of online verification under “Operation Clean Money”, the Income Tax Department gathered a list of persons who had deposited substantial cash in bank account(s) during the demonetization period but have not filed the return of income for A.Y. 2017-18. The data revealed the assessee is also one of them who had deposited cash of Rs.14,21,000/- during the said period. Subsequently, notice u/s 142(1) of the Act was issued on 09.03.2018 calling the assessee to furnish the return of income. But the assessee failed to file the return of income u/s 139 and also failed to furnish ITR in response to notice u/s 142(1) of the Act. During the course of assessment proceedings, on the basis of AIR information, details from third parties u/s 133(6) of the Act were called for and later found that assessee had made transactions totalling to Rs.47,01,317/- during the year under consideration. Finally, in view of the provisions u/s 144(1)(b) of the Act, the Assessing Officer had completed the assessment interalia by making an addition of Rs.47,01,320/- u/s 69A of the Act.

5. Feeling aggrieved with the order of Assessing Officer, assessee filed an appeal before the Id.CIT(A) who dismissed the appeal of assessee on account of non-prosecution and on merits.

6. Feeling aggrieved with the order of Id.CIT(A), assessee is now in appeal before me.

7. Before me, Id.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. Id.AR further submitted that as the assessee has sufficient cause from putting in appearance before the Id.CIT(A), matter may kindly be remitted back to the authorities below for afresh adjudication.

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

9. I have heard the rival submissions and perused the material on record. The Assessing Officer in Para 12 of his order held that though the assessee was also asked to explain as to why assessment in his case should not be completed u/s 144 of the Act by treating the entire cash deposits in his bank account as unexplained, however, he 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 vide Para 6 of his order held that assessee did not pursue the appeal despite being granted several opportunities as elaborated in Para 4.2 of his order calling for the details in support of his case. However, issuance of notices, assessee failed to

furnish any explanation to substantiate the credit entries in his bank account which were made during the demonetization period. Having faced with the above situation, Id.CIT(A) / NFAC had passed an order confirming the addition made by the Assessing Officer.

10. 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 in the interests of justice, one more opportunity is granted to the assessee to appear and contest the case before the Id.CIT(A). Hence, I remand back the appeal to the file of Id.CIT(A) with a liberty to grant one more opportunity to the assessee to prove his case subject to payment of Rs.5,000/- (Rupees Five 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 fixed by the Id.CIT(A), the assessee shall file all the documents / evidence in support of his case and in that eventuality, the Id.CIT(A) shall call for the remand report from the Assessing Officer. In case, the assessee failed to file any documents in support of his case, Id.CIT(A) shall decide the matter in accordance with the law. Accordingly, the appeal of assessee is allowed for statistical purposes.

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

Order pronounced in the Open Court on 20<sup>th</sup> March, 2023.

Sd/-  
**(LALIET KUMAR)**  
**JUDICIAL MEMBER**

Hyderabad, dated 20<sup>th</sup> March, 2023.  
***TYNN/sps***

Copy to:

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2	ACIT/DCIT, Ward - 1, Warangal.
3	DR, ITAT Hyderabad Benches, Hyderabad.
4	Guard File

*By Order*