

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

BEFORE

SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.139/Hyd/2023		
Assessment Year: 2017-18		
Shafeeq Iqbal, H.No.215, Gymkhana Road, Mudfort, Opp to KJR Gardens, Secunderabad. PAN : AASP13539E.	Vs.	ITO, Ward-10(1), I.T. Towers, Hyderabad.
(Appellant)		(Respondent)
Assessee by:		Ms. S. Sandhya
Revenue by:		Sri A. Sitarama Rao.
Date of hearing:		13.04.2023
Date of pronouncement:		13.04.2023

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.21.09.2022 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. The order of the Ld. Commissioner of Income-Tax (Appeals) is erroneous both on facts and in law.

2. The Ld. Commissioner of Income-Tax (Appeals) erred in the confirming the action of the Assessing officer in not considering the deposits of Rs.12,01,000/- made during the demonetization as unexplained money u/s 69 of the IT Act. The Ld. CIT(Appeals) failed to appreciate the fact that the amount represents savings and withdrawals before demonetization period by the appellant and were properly explained.

3. The Ld. Commissioner of Income-Tax (Appeals) ought to have seen that the amount deposited into the bank account was from out of the cash balance available which emanated from the business transactions. The Ld. Commissioner of Income-Tax (Appeals) ought to have seen that all such receipts are already included as the income of the appellant and cannot further be taxed by the Assessing officer u/s 69 of the I.T. Act.

4. The Ld. Commissioner of Income-Tax (Appeals) erred in confirming the action of the Assessing officer in not considering the deposits of Rs. 12,01,000/- and taxed u/s-115BBE rws 69 of the IT Act.

5. The Ld. Commissioner of Income-Tax (Appeals) erred in confirming the action of the Assessing Officer in charging interest u/s 234A of Rs. 2,69,033/- & 234B of Rs. 3,06,141/ - of the Act.

3. Facts of the case, in brief, are that assessee is an individual doing Doctor Profession. As per the information received from the AIMS data, the assessee had made cash deposits of Rs.9,51,000/- & Rs.2,50,000/- in his bank account 630805500726 & 630801539162 held with ICICI Bank, Kharkahana Branch, during the demonetization period. As the assessee had not filed any return of income and failed to disclose income under any head, notice u/s 142(1) calling for return was issued on 09.03.2018 through ITBA portal and served

electronically on the same date. As there is no response from the assessee, a final show cause letter 21.11.2019 was also issued, requesting for compliance to the notice u/s 142(1) issued on 09.03.2018 and explaining the consequences of non-compliance to the notices issued. As there is no response to the letter issued, a final show cause letter dated 21.11.2019 was also issued requesting the assessee to furnish the required information. As there was no response from the assessee for notices issued, in spite of several opportunities given, finally, the Assessing Officer had completed the assessment interalia by making an addition of Rs.12,01,000/- u/s 69A of the Act.

4. Feeling aggrieved with the order of Assessing Officer, assessee filed an appeal before the ld.CIT(A) who dismissed the appeal of assessee.

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

6. Before me, 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. I have heard the rival contentions of both the parties and perused the material available on record and also the order passed by the lower authorities. On perusal of the impugned order passed by ld.CIT(A), I found that ld.CIT(A) passed an exparte order confirming the action of the Assessing Officer, as the assessee failed to appear despite granting of sufficient opportunities. In paras 6 and 6.2 of the ld.CIT(A)'s order, clearly mentioned the details of various opportunities granted to the assessee. On perusal of the order of ld.CIT(A) on merits, I found that the ld.CIT(A) has failed to consider the explanation given by the assessee that the said cash deposits were from out of his professional receipts and that the withdrawals made by him were for meeting the expenses connected with the profession and others. As the explanation of the assessee has not been considered by the ld.CIT(A) and the order of Assessing Officer had been confirmed without appreciating the record, I deem it appropriate to remand back the matter to the file of ld.CIT(A) with a direction to consider the explanation offered by the assessee and the documents placed on record before me after affording sufficient opportunities of hearing to the assessee in accordance with the law.

9. The assessee shall be at liberty to file documents, if any, as required for proving his case and the ld.CIT(A) shall consider the evidences, if any, filed by the assessee. Needless to say the ld.CIT(A) shall examine those documents / evidence filed by the assessee and also the other documents available on record. After considering the documents filed by the assessee and the submissions made by the assessee, the ld.CIT(A) shall pass a detailed speaking order dealing with the contentions of the assessee. I have not adjudicated the other grounds on merits as I am setting aside the orders passed by the lower authorities to the file of ld.CIT(A) for fresh adjudication. The assessee is directed to appear before the ld.CIT(A) and cooperate in early hearing of the appeal. Thus, the grounds of the assessee are allowed for statistical purposes.

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

Order pronounced in the Open Court on 13th April, 2023.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad, dated 13th April, 2023.

TYNN/sps

Copy to:

S.No	Addresses
1	Shafeeq Iqbal, H.No.215, Gymkhana Road, Mudfort, Opp. to KJR Gardens, Secunderabad.
2	ITO, Ward-10(1), I.T. Towers, Hyderabad.
3	DR, ITAT Hyderabad Benches, Hyderabad.
4	Guard File

By Order