

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

BEFORE

SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.709/Hyd/2022		
Assessment Year: 2017-18		
Veerender Rama, 6-2-4/6-5, Hyderabad Road, Jangaon, Warangal – 506167. PAN : AJXPR4883L	Vs.	ITO, Ward-3, Warangal.
(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 143(3) of the Income Tax Act, 1961 (in short, “the Act”).

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

“1. The order both of the ld.CIT(A) is erroneous both on facts and in law.

2. The learned Commissioner of Income-tax (Appeals) erred in deciding the appeal ex-parte without providing proper opportunity to the appellant.

3. The learned Commissioner of Income-tax (Appeals) erred in confirming the addition of Rs. 10,93,000/- made by the AO on account of money deposited into the bank account during demonetization period.

4. The learned Commissioner of Income-Tax (Appeals) ought to have noticed the fact that the amount of Rs. 10,93,000 deposited into the bank account is a part of the business receipt recorded in the books of account of the appellant.

5. The learned Commissioner of Income-Tax (Appeals) ought to have considered the fact that the bank authorities accepted the currency as a legal tender money at the time of deposit and, therefore, the Assessing Officer is not justified in not considering the currency as a source for explaining the cash deposits.

6. The learned Commissioner of in Income-tax (Appeals) erred in confirming the action of the Assessing Officer in charging interest u/s 234A and 234B of the I.T. Act.”

3. The appeal filed by the assessee is barred by limitation by 24 days. The assessee has moved a condonation petition explaining reasons therein by way of filing an affidavit along with Medical Certificate. I have heard both the parties on this preliminary issue. Having regard to the reasons given in the affidavit, I condone the delay and admit the appeal for hearing.

4. Facts of the case, in brief, are that assessee is an individual, engaged in the business of trading in two wheelers and two wheelers spares and servicing, filed its return of income for the A.Y. 2017-18 on 04.12.2017 admitting total income of Rs.7,84,471/-. The case was selected for scrutiny under CASS limited scrutiny and accordingly, notice u/s 143(2) of the Act dt.14.08.2018 was issued and duly served on the assessee. Subsequently, notice u/s 142(1) of the Act was issued from time to time calling for the information. In response to the notices, the assessee furnished information through e-proceedings. 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 deposited cash of Rs.2,70,66,922/-. The explanation offered by the assessee was not accepted by the Assessing Officer and finally, the Assessing Officer had completed the assessment interalia by making an addition of Rs.10,93,000/- u/s69A 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.

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

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

8. Per contra, the ld.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 had treated the deposits of Rs.10,93,000/- made by the assessee during the demonetization period as unexplained investment and interalia made an addition of the same to the returned income under section 69A of the Act, as the assessee failed to prove that the cash deposited during the said period are from explained sources. Subsequently, the assessee carried the matter before the ld.CIT(A), who vide Para 7 of his order held that assessee did not pursue the appeal despite being granted several opportunities, calling for the details in support of his case. Further, despite issuance of notices, assessee failed to furnish any explanation to substantiate the deposits made during the demonetization period. Having faced with the above situation, ld.CIT(A) / NFAC had passed on 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) subject to the 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. 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. Further the assessee is directed to appear before the Id.CIT(A) on the date of hearing fixed by the Id.CIT(A) and 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 13th April, 2023.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad, dated 13th April, 2023.

TYNM/sps

Copy to:

S.No	Addresses
1	Veerender Rama, 6-2-4/6-5, Hyderabad Road, Jangaon, Warangal – 506167
2	ITO, Ward – 3, Warangal.
3	DR, ITAT Hyderabad Benches, Hyderabad.
4	Guard File

By Order