

**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC "A" BENCH : BANGALORE**

**BEFORE
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No.252/Bang/2023
Assessment Year : 2017-18

Anitha Fernandes, 6 th Main, 3 rd Cross, Sadashivanagar, Tumkur-572 102. PAN : AAIPF 9496 K	Vs.	The Income-tax Officer, Ward-1 & TPS, Tumkur.
APPELLANT		RESPONDENT

Assessee by	:	Shri Sandeep Chalapathy, C.A
Revenue by	:	Shri Ganesh R Ghale, Standing Counsel

Date of hearing	:	27.04.2023
Date of Pronouncement	:	01.05.2023

ORDER

Per: L. P Sahu A.M.

This is an appeal filed by the assessee against the order passed by the National Faceless Appeal Centre (NFAC) vide order dated 30/01/2023 DIN & Order No. ITBA/NFAC/S/250/2022-23/1049257573(1). The sole & substantive issue involve in this appeal is ex-parte order passed by the Assessing Officer & confirmed by the CIT (A) u/s 69A of Rs. 10,40,000/- during the demonization period.

2. The brief facts of the case are that the assessee is an individual and for the impugned assessment year, the assessee did not file return of income within the due date as per sec. 139(1) of the Act. Accordingly notice u/s 142(1) of the Act was issued on 04/01/2018, which was served on the assessee on 06/01/2018, but the assessee failed to file return of income and even the assessee did not file return of income u/s 139(4) of the Act. Another notice was issued to the assessee on 18/3/2019 calling for the details. In response, the assessee uploaded her return of income on 27/3/2019 showing income of Rs.55,420/- but it was pending for e-verification. Hence, the return was treated as invalid return and the assessment was processed to completed u/s 144 of the Act. Another notice was also issued u/s 142(1) of the Act but the assessee did not file any response against the notice. The AO gave one more opportunity calling for the details, in this regard the assessee's representatives filed letter on 07/08/2019 and submitted that the assessee does not have any business income, hence she is not subjected to audit. The AO exercised the power u/s 133(6) of the Act and called the details from the banks for the period from 1/4/2016 to 31/3/2017 from the Canara Bank, where the assessee had maintained a saving account No.2603101000581 and in which, it has been observed that there is cash deposit of Rs.10,40,000/-. Subsequently, the assessee's representative filed information/profit and loss account in which, the assessee has shown agricultural income of Rs.6,75,000/- and exempt income of Rs.12,94,568/-, gift from brother for

Rs.5,42,000/- and LIC maturity for Rs.6,19,568/- but the assessee could not substantiate with the documentary evidence in support of her claim. On 06/08/2019 another notice was issued to the assessee. in support of her claim. The case was completed u/s 144 of the Act and determined the income at Rs.10,40,000/-, which was treated as unexplained investment u/s 69A of the Act.

3. Aggrieved from the above order, the assessee filed appeal before the CIT(A). During the course of appellate proceedings, the CIT(A) issued several notices but the assessee did not respond to the same and final opportunity was also given to the assessee but again, the assessee failed to submit any documents/reply. Therefore, the CIT(A) also decided the issue on the documents available before him and dismissed the appeal of the assessee.

4. Aggrieved from the above order, the assessee filed appeal before the ITAT.

5. The Id.AR submitted that the assessee is an illiterate and she could not understand the Income-tax proceedings properly and the documents were also available with her and she is humbly praying that if chance is given to represent the case before the revenue authorities once again, the assessee would be able to produce the documents in support of the cash deposited into the bank account. Therefore, he requested that the matter may be sent back to the AO.

6. On the other hand, the Id.DR supported the order of the lower authorities and submitted that ample opportunities were given to the assessee at the stage of assessment proceedings as well as appellate proceedings itself but she did not utilize the opportunity provided by the revenue authorities. He strongly objected the request made by the assessee for sending back the matter to the lower authorities and he also submitted that the assessee file return of income is invalid return .

7. After hearing both sides and pursuing the entire material available on record, that the assessee did not file her return of income as per sec. 139 of the Act. On perusal of the assessment order, I observe that the AO has computed the income u/s 69A of the Act only on the cash deposited into the saving Bank account maintained with Canara Bank. During the course of hearing before the AO, the representative of the assessee filed financial statements for substantiating the cash deposited into the bank account but she could not file any supporting documents and before the CIT(A) also she could not submit any corroborative materials in support of her claim. During the course of hearing, the Id.AR of the assessee undertook that the assessee would be able to file supporting documents in support of her income declared before the AO. In view of this and considering the prayer of the Id.AR of the assessee the matter is sent back to the file of AO for denovo assessment and the assessee is given liberty to produce necessary documents for

substantiating the cash deposited into the bank account. The AO shall grant three effective opportunities to the assessee.

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

Order pronounced in court on day of 1st May, 2023

Sd/-

(Laxmi Prasad Sahu)
Accountant Member

Bangalore,
Dated : 1st May, 2023
Vms

Copyto:

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.

1. Date of Dictation
2. Date on which the typed draft is placed before the dictating Member
3. Date on which the approved draft comes to Sr.P.S
.....
4. Date on which the fair order is placed before the dictating Member
5. Date on which the fair order comes back to the Sr. P.S.
6. Date of uploading the order on website.....
7. If not uploaded, furnish the reason for doing so
.....
8. Date on which the file goes to the Bench Clerk
.....
9. Date on which order goes for Xerox & endorsement.....
10. Date on which the file goes to the Head Clerk
.....
11. The date on which the file goes to the Assistant Registrar for signature on the order
.....
12. The date on which the file goes to dispatch section for dispatch of the Tribunal Order
.....
13. Date of Despatch of Order.
.....