

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' Bench, Hyderabad

Before Shri R.K. Panda, Accountant Member
AND
Shri K. Narasimha Chary, Judicial Member

ITA No. 569/Hyd/2022		
Assessment Year: 2018-19		
Gayatri ECI Hyderabad PAN:AAAAG3746J	Vs.	Dy. C. I. T Circle 6(1) Hyderabad
(Appellant)		(Respondent)
Assessee by:	Shri Kiran Manohar for Shri Mohd.Afzal, Advocate	
Revenue by:	Shri Kumar Aditya, DR	
Date of hearing:	07/06/2023	
Date of pronouncement:	08/06/2023	

ORDER

Per R.K. Panda, A.M

This appeal filed by the assessee is directed against the ex-parte order dated 22/08/2022 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2018-19.

2. Facts of the case, in brief, are that the assessee is an AOP and is engaged in the business of widening and strengthening of the existing National Highway. The assessee filed its return of income on 12.10.2018 declaring total income at Rs.1,15,96,950/-. The case was selected for scrutiny and statutory notices u/s 143(2) & 142(1) were issued to the assessee to which the AR of the assessee filed various details through

online. The Assessing Officer completed the assessment u/s 143(3) on 23.4.2021 determining the total income of the assessee at Rs.2,56,30,361/- wherein he made addition of Rs.1,40,33,411/- by disallowing various expenses.

2.1 Since the assessee did not appear before the learned CIT (A)-NFAC despite number of opportunities granted, the learned CIT (A) – NFAC in the ex-parte order passed by him sustained the various disallowance made by the Assessing Officer.

4. Aggrieved with such order of the learned CIT (A) NFAC, the assessee is in appeal before the Tribunal by raising the following grounds of appeal:

“1. The order of the learned Commissioner (Appeals) of Income Tax is against the law, weight of evidence and probabilities of case.

2. The learned Commissioner (A) erred in confirming the order of the Assessing Officer wherein an expenditure of Rs.1,40,33,411/- is disallowed.

3. The learned Commissioner (A) ought to have appreciated that the assessee produced books of accounts and also ledger copy of the Gayatri Projects Ltd to which an aggregate amount of Rs.40,24,05,342/- is paid which includes Rs.1,40,33,411/-, therefore, erred in confirming the order of the Assessing Officer.

4. The learned Commissioner (A) erred in assuming that the partner of JV i.e. Gayathri Projects have not offered Rs.1,40,33,411/- for taxation purpose, therefore, further erred in confirming the disallowance made by the Assessing Officer to an extent of Rs.1,40,33,411/-.

5. The appellant craves leave to add to, amend or modify the above grounds of appeal either before or at the time of hearing of the appeal, if it is considered necessary”.

5. The learned Counsel for the assessee submitted that due to non-receipt of the notice issued by the office of the CIT (A)/ NFAC, there was no compliance before the learned CIT (A) NFAC. He submitted that the notices issued by the CIT (A) NFAC through

mail had gone to Spam for which the assessee was not able to see the notices. He accordingly submitted that in the interest of justice, the assessee should be given an opportunity to represent its case before the learned CIT (A) NFAC to substantiate its case.

6. The learned DR, on the other hand, while opposing the submissions made by the learned Counsel for the assessee drew the attention of the Bench to the order of the CIT (A) NFAC and submitted that despite multiple opportunities granted by the CIT (A) NFAC, the assessee failed to submit the requisite details for which the learned CIT (A) NFAC was constrained to pass the ex-parte order.

7. We have heard the rival arguments made by both the sides and perused the orders of the AO and the learned CIT (A). It is an admitted fact that due to non-submission of the requisite details before the learned CIT (A) NFAC, despite number of opportunities granted, the learned CIT (A) NFAC passed the ex-parte order. It is the submission of the learned Counsel for the assessee that the notices issued by the learned CIT (A) NFAC through mail went to Spam for which the assessee was not able to see the notices issued by the CIT (A) NFAC for which the case remained unrepresented. It is also his submission that given an opportunity, the assessee is in a position to substantiate his case by filing the requisite details. Considering the totality of the facts of the case and in the interest of justice, we restore the issue to the file of the learned CIT (A) NFAC with a direction to grant one last opportunity to the assessee to substantiate its case and decide the issue as per fact and law. The assessee is also hereby directed to file the requisite details before the CIT (A) NFAC on the appointed date without seeking any adjournment under any

pretext failing which the learned CIT (A) NFAC is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee is accordingly allowed for statistical purposes.

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

Order pronounced in the Open Court on 8th June, 2023.

Sd/- (K. NARASIMHA CHARY) JUDICIAL MEMBER	Sd/- (R.K. PANDA) ACCOUNTANT MEMBER
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Hyderabad, dated 8th June, 2023

Vinodan/sps

Copy to:

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1	GAYATRI ECI, C/o Mohd. Afzal, Advocate, No.402, Sherson's Residency, 11-5-465, Criminal Court Road, Red Hills, Hyderabad 500004
2	Dy.CIT, Circle 6(1) Hyderabad
3	DR, ITAT Hyderabad Benches
4	Guard File

By Order