

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES “SMC”, HYDERABAD**

**BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER**

|  |     |   |
|--|-----|---|
| ITA No.329/Hyd/2023  |     |   |
| Assessment Year: 2017-18                                     |     |   |
|  |     |   |
| Narsing Rao Gowlikar,<br>Hyderabad.<br><br>PAN : AKJPG3432F. | Vs. | The Asst. Commissioner of<br>Income Tax,<br>Circle 7(1), Hyderabad. |
| (Appellant)  |     | (Respondent)  |
| Assessee by:   |     | Shri Y. V. Bhanu Narayan Rao  |
| Revenue by:  |     | Shri B. Ravinder  |
|  |     |   |
| Date of hearing:   |     | 05/07/2023  |
| Date of pronouncement:                                       |     | 05/07/2023  |

**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.09.03.2023 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. On the facts and in the circumstances of the case, the ex-parte orders passed by the ld.CIT(A) upholding the additions made by the Assessing Officer are erroneous, improper, unjust and contrary to law.*

*2. On the facts and in the circumstances of the case, the ld.CIT(A) erred by upholding the addition of Rs.13,87,290/- made by the learned Assessing Officer by treating the cash deposits made during the demonetization period as unexplained credit u/s 68 of the I.T. Act, 1961.*

*3. On the facts and in the circumstances of the case, the learned Commissioner of Income Tax (Appeals) erred by upholding the addition of Rs. 13,87,290/- made by the learned Assessing Officer by treating the cash deposits made during the demonetization period as unexplained credit u/s 68 of the I.T. Act, 1961 ignoring the fact that the assessee is a trader in sheep / goat offals wherein the sales are made to a large number of small customers and that the sale proceeds are primarily received in cash in the normal course of business.*

*4. On the facts and in the circumstances of the case, the ld.CIT(A) erred by upholding the addition of Rs. 13,87,290/- made by the learned Assessing Officer by treating the cash deposits made during the demonetization period as unexplained credit u/s 68 of the I.T. Act, 1961 by completely ignoring the explanations given by the assessee and the evidence submitted in the form of bank deposit slips for the period under review duly evidencing the denominations of the cash deposited.*

*5. On the facts and in the circumstances of the case, the learned Commissioner of Income Tax (Appeals) erred by upholding the addition made by the learned Assessing Officer by passing orders u/s 143(3) of the Act which is bad in law in as much as he failed to appreciate that the provisions of sec. 68 of the Act have no relevance to the facts of the case, and as such is against the principles of natural justice.*

*6. On the facts and circumstances of the case, the levy of interest u/s 234B and 234C are excessive and not in order.”*

3. Facts of the case, in brief, are that assessee is an individual and a wholesaler. Assessee filed his return of income for the Assessment Year 2017-18 on 23-10-2017 by admitting total income of Rs.23,16,100/- and the return was processed u/s. 143(1) of the IT Act. Subsequently, the case was selected for limited scrutiny and accordingly notice u/s.143(2) dated 18-09-2018 and notice u/s. 142(1) was issued from time to time calling for information. In response to the said notices, the assessee had submitted the relevant information to the Assessing Officer from time to time. Thereafter, AO had completed the scrutiny assessment and passed an order u/s.143(3) interalia making an addition of Rs.13,87,290/- u/s 68 of the Act to the total income of the assessee.

4. The appeal filed by the assessee is barred by limitation by 35 days. However, he has moved a condonation petition explaining reasons for the delay. I have heard both the parties on this preliminary issue. Considering the reasons mentioned in the petition, I condone the delay and admit the appeal for hearing.

5. Feeling aggrieved with the order of Assessing Officer, assessee carried the matter before 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 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.

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

9. 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 para 3.1. of the ld.CIT(A)'s order, clearly mentioned the details of various opportunities granted to the assessee. Upon perusal of the order of the ld. CIT(A) on merits, I found that the ld. CIT(A) has failed to consider the explanation given by the assessee. The assessee explained that he made cash deposits amounting to Rs.33,70,050/- in two accounts held in ICICI Bank during the demonetization period. Furthermore, he stated that an amount of Rs.17,82,760/- was the cash available with him as per the cash book as of 08.11.2016. Additionally, the assessee received an amount of Rs.6,93,500/- in new notes from a customer during the

demonetization period and also disclosed Rs.2,00,000/- under the PMGKY Scheme. As the explanation of the assessee has not been considered by the Id.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 Id.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, subject to payment of Rs.2,000/- (Rupees Two Thousand only) in favour of Prime Minister National Relief Fund to be deposited within one month or from the date of receipt of this order or whichever is earlier.

10. The assessee shall be at liberty to file documents, if any, as required for proving his case and the Id.CIT(A) shall consider the evidences, if any, filed by the assessee. Needless to say the Id.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 Id.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 Id.CIT(A) for fresh adjudication. The assessee is directed to appear before the Id.CIT(A) and cooperate in early hearing of the appeal. Thus, the grounds of the assessee are allowed on above terms for statistical purposes.

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

Order pronounced in the Open Court on 5<sup>th</sup> July, 2023.

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

Hyderabad, dated 5<sup>th</sup> July, 2023.

***TYNM/sps***

Copy to:

| S.No | Addresses   |
|------|---|
| 1    | Narsing Rao Gowlikar, R/o.H.No.14-2-421, Goshamahal, Hyderabad. |
| 2    | The Asst. Commissioner of Income Tax, Circle 7(1), Hyderabad.   |
| 3    | DR, ITAT Hyderabad Benches                                      |
| 4    | Guard File  |

*By Order*