

आयकर अपीलिय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad

Before Shri R.K. Panda, Vice-President
AND
Shri K. Narasimha Chary, Judicial Member

ITA No.326/Hyd/2023		
Assessment Year: 2017-18		
Mareddy Jagan Mohan Reddy, Prakasam PAN:BEYPR2573E (Appellant)	Vs.	Income Tax Officer Ward 2 Ongole (Respondent)
Assessee by:	Shri Hari Krishna, CA	
Revenue by:	Shri KPRR Murthy, CIT(DR)	
Date of hearing:	19/07/2023	
Date of pronouncement:	20/07/2023	

ORDER

Per R.K. Panda, A.M

This appeal filed by the assessee is directed against the ex-parte order dated 20.03.2023 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2017-18.

2. There is a delay of 21 days in filing of this appeal by the assessee for which the assessee has filed a condonation application along with an affidavit explaining the reasons for the delay which is on account of ill health of the assessee. After considering the contents of the condonation petition filed along with the affidavit and after hearing the learned DR, the delay in filing of this appeal by the assessee is condoned and the appeal is admitted for adjudication.

3. Although a number of grounds have been raised by the assessee, however, these all relate to the ex-parte order of the learned CIT (A) NFAC in confirming the addition of Rs.15.00 lakhs made by the Assessing Officer u/s 69A r.w.s. 115BBE of the Act.

4. Facts of the case, in brief, are that the assessee is an individual and has deposited an amount of Rs.20,69,000/- in his Bank Account during demonetization period in the financial year 2016-17. Since he had not filed his return of income within the statutory time allowed u/s 139(1) of the I.T. Act, 1961, a notice u/s 142(1) of the Act was issued calling for certain information. After considering the submissions filed by the assessee explaining the source of income, the Assessing Officer held that an amount of Rs.15.00 lakhs deposited on 15.11.2016 is unexplained and brought the same to tax as per provisions of section 69A r.w.s.115BBE.

5. In appeal, the learned CIT (A) NFAC dismissed the appeal filed by the assessee due to non-appearance.

6. Aggrieved with such order of the learned CIT (A) the assessee is in appeal before the Tribunal.

7. The learned Counsel for the assessee submitted that all the details were submitted to the Counsel of the assessee who was supposed to appear before the learned CIT (A) NFAC. However, unfortunately, the said Counsel did not appear before the learned CIT (A) NFAC for which the learned CIT (A) NFAC dismissed the appeal for want of prosecution. He submitted that in the interest of justice, the assessee should be given an opportunity to

substantiate his case. He accordingly submitted that the matter may kindly be remanded to the file of the learned CIT (A) NFAC.

8. The learned DR, on the other hand, opposed the above arguments of the learned Counsel for the assessee. He submitted that the learned CIT (A) NFAC has given 3 opportunities to the assessee but the assessee did not avail of these opportunities. He submitted that the Assessing Officer has already granted substantial relief to the assessee by accepting an amount of Rs.5,69,000/- and since the assessee could not explain the source of the remaining Rs.15.00 lakhs, the Assessing Officer made the addition which has rightly been sustained by the learned CIT (A) NFAC. He accordingly submitted that the grounds raised by the assessee should be dismissed.

9. 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 the assessee during the demonetization period had deposited an amount of Rs.20,69,000/- in his bank account and has not filed the return of income before the statutory due date as prescribed u/s 139(1) of the I.T. Act for which the Assessing Officer issued notice u/s 142(1) of the I.T. Act. We find during the course of assessment proceedings, the assessee tried to explain the source of the cash so deposited as on account of savings from salary, amount received from his wife, mother and his sister totaling to Rs.15.00 lakhs and an amount of Rs.5,69,000/- being the loan taken from Muthoot Finance Ltd. We find the Assessing Officer accepted the source to the tune of Rs.5,69,000/- but rejected the explanation of the assessee regarding the source of Rs.15.00 lakhs and accordingly, made addition of the same u/s 69A r.w.s. 115BBE of the I.T. Act. We

find the learned CIT (A) NFAC sustained the addition made by the Assessing Officer in absence of any submission or documentary evidence filed by the assessee despite 3 opportunities granted. It is the submission of the learned Counsel for the assessee that given an opportunity, the assessee is in a position to substantiate his case by explaining the source with documentary evidence to the satisfaction of the learned CIT (A) NFAC. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to 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 his case and decide the issue as per fact and law. The assessee is also hereby directed to appear 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. At the same time due to the callous attitude of the assessee in ignoring the notices of the learned CIT (A) NFAC, we levy a cost of Rs.5000/- on the assessee which is to be paid to the PMs Relief Fund. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the Open Court on 20th July, 2023.

Sd/- (K. NARASIMHA CHARY) JUDICIAL MEMBER	Sd/- (R.K. PANDA) VICE-PRESIDENT
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Hyderabad, dated 20th July, 2023

Vinodan/sps

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2	Income Tax Officer Ward 2 Ongole
3	DR, ITAT Hyderabad Benches
4	Guard File

By Order