

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "SMC", HYDERABAD

BEFORE SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 361/Hyd/2023  
(निर्धारण वर्ष / Assessment Year: 2017-18)

Swapna Katakam, Hyderabad [PAN No. AQMPK6035D]	Vs. Income Tax Officer, Ward-4(3), Hyderabad
अपीलार्थी / Appellant	प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri S. Rama Rao, AR  
राजस्व द्वारा/Revenue by: Shri Suresh Anubham, DR

सुनवाई की तारीख/Date of hearing: 03/08/2023  
घोषणा की तारीख/Pronouncement on: 03/08/2023

आदेश / ORDER

Aggrieved by the order dated 20/03/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Swapna Katakam ("the assessee") for the assessment year 2017-18, assessee preferred this appeal.

2. Brief facts of the case are that the assessee is an individual. During the year under consideration, she derived income from her business of sale of cell phones and sim cards. According to her, during the year under consideration, she received Rs. 90.52 lakhs on sale of cell phones and another sum of Rs. 3,78,78,330/- on sale of sim cards, and her books justify an income of only Rs. 3,87,144/-.

3. Her grievance is that the learned Assessing Officer, while accepting the receipts from the sim cards, estimated 8% of income on sale of cell phones and thereby determined the income component thereon of Rs. 7,95,427/-. However, the learned Assessing Officer without reducing such an income declared by the assessee to the tune of Rs. 3,87,144/- from out of the declared income, added the entire amount of Rs. 7,95,427/-.

4. Apart from this, learned Assessing Officer noticed that there were deposits to the tune of Rs. 25,26,050/- during the period of demonetization in two bank accounts of the assessee, namely Bank of Baroda, Ramantapur, Hyderabad and Bank of Baroda, Tilak Nagar, Hyderabad. According to the assessee, her major business transactions were through banking channels, but only small amounts received by her on recharge of sims were deposited in bank account. She says that her cash book and ledger would establish this fact.

5. It is submitted by the learned AR now that the assessee being a woman, could not run the business profitably and, therefore, she stopped doing such business and migrated to Warangal. Since she started receiving notices only from 09/08/2018 while she was in Warangal, she could not prosecute her case diligently before the learned Assessing Officer, but she is ready to produce these facts along with ledger and cash book before the authorities. Learned Assessing Officer also denied benefit claimed by the assessee under section 80C of the Income Tax Act, 1961 (for short "the Act") to the tune of Rs. 1,64,824/- on the ground of no evidences.

6. Learned CIT(A) recorded that except filing statement of facts, assessee did not respond to any of the notices issued from the first appellate proceedings and, therefore, there was no reason for him to interfere with the findings of the learned Assessing Officer.

7. It is the submission on behalf of the assessee that given the nature business conducted by the assessee, there is a huge volume of ledger book and cash book which could not conveniently be uploaded to the National Faceless Appeal Centre. They submit that since these are the beginning years of faceless appellate procedure, the assessee could not undertake this exercise. He further submitted that the assessee was not given an opportunity to produce such a record before the learned Assessing Officer, because at the stage of assessment, the assessee could not produce such evidences before the learned Assessing Officer. In these circumstances, the hardship is pleaded on behalf of the assessee that due to the changed procedure in first appellate proceedings, the assessee could not upload ledger and cash book which resulted in dismissal of the appeal.

8. Learned AR submits that having regard to the facts and circumstances, an opportunity may be granted to the assessee for two reasons. Firstly, the learned Assessing Officer failed to reduce the declared business income from out of the claimed business income and adding the entire amount to the income of the assessee. And secondly that the first appellate authority did not give adequate opportunity to the assessee to submit all her evidences.

9. Learned DR vehemently opposed the relief sought by the assessee on the ground that when the assessee slept over the matter before the two authorities, it would not be just and proper to afford another opportunity to the assessee and having regard to the non-diligence on the part of the assessee, she does not deserve any relief.

10. I have gone through the record in the light of the submissions made on either side. It is evident from the assessment order that the learned Assessing Officer accepted the receipts in respect of sale of sim cards. He, estimated the business income of the assessee on account of sale of cell phones. Learned Assessing Officer, however, failed to reduce therefrom

the declared income, but added the entire estimated income, without taking note of the declared income is impermissible. Further submission of the assessee is that in the line of business conducted by the assessee i.e., in the sale of cell phones, 8% income is not possible and at best it would be between 3% to 5%. This aspect will have to be considered by the authorities.

11. Coming to the deposits in the bank accounts of the assessee, it is not the case of Revenue that such deposits are in specified notes. Learned Assessing Officer does not hold that such deposits were not made in the ordinary course of business of the assessee. Volume of sales per each calendar month give a clue on this aspect and if the sale in each month are more or less comparable, we cannot infer that only to defeat the demonetization claim, such deposits were made. This aspect requires factual verification in the light of the ledger and cash book.

12. Since this is purely a question of fact with reference to the cash book and ledger and other evidences, if any, to be produced by the assessee, I deem it just and proper that this task is assigned to the learned Assessing Officer instead of learned CIT(A). I, therefore, set aside the impugned order and restore the matter to the file of learned Assessing Officer to comply with the above directions.

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

Order pronounced in the open court on this the 3<sup>rd</sup> day of August, 2023.

Sd/-  
**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

Hyderabad, Dated: 03/08/2023

TNMM

Copy forwarded to:

1. Swapna Katakam, 2-2-90/10/11/B, Turab Nagar, Amberpet, Hyderabad.
2. Income Tax Officer, Ward-4(3), Hyderabad.
3. Pr.CIT
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ASSISTANT REGISTRAR  
ITAT, HYDERABAD