

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

BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.452/Hyd/2023		
Assessment Year: 2017-18		
Janakiram Reddy, Namireddy, 12-13-588/N, Street No.14, Lane No.20, Nagarjuna Nagar, Tarnaka, Secunderabad, Telangana – 500017. PAN : ARVPN9393F.	Vs.	The Income Tax Officer, Ward – 1, Nalgonda.
(Appellant)		(Respondent)
Assessee by:	None	
Revenue by:	A.P. Babu, Sr.D.R.	
Date of hearing:	03.10.2023	
Date of pronouncement:	03.10.2023	

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.20.07.2023 invoking proceedings under section 144 of the Income Tax Act, 1961 (in short, “the Act”).

2. The grounds raised by the assessee reads as under :

"1. The order passed by the learned Commissioner of Income Tax (Appeals) — NFAC ("CIT(A)") under section 250 of the Income Tax Act, 1961 (hereinafter referred as "the Act") insofar as it is against the Appellant, is opposed to law, weight of evidence, natural justice, and probabilities on the facts and circumstances of the Appellant's case.

2. The impugned order was passed by the learned CIT(A) without affording sufficient opportunity of hearing and in gross violation of principles of natural justice and consequently, the impugned order is liable to be set aside on the facts and circumstances of the case.

3. The Appellant denies herself liable to be assessed at Rs. 11,32,720/- as against the returned income of NIL for the year under consideration, on the facts and circumstances of the case.

4. The Appellant submits that the learned Assessing Officer was not justified in making additions amounting to Rs. 11,32,720/- under section 69A of the Act, on the facts and circumstances of the case.

5. The Assessing Officer has erred by passing ex-parte order under section 144 of the Act, when the notices during the assessment proceedings were neither brought to the attention nor delivered to the appellant's correct address, on the facts and circumstances of the case.

6. The Assessing Officer was not justified in considering deposits made during the financial year 2016-17 as unexplained money and treated the same under section 69A of the Act and went ahead by treating such deposits as income and made additions to total income which is bad in law, on the facts and circumstances of the case.

7. The learned CIT(A) was not justified in upholding the addition made under 69A of the Act, when such deposits made during the relevant financial year i.e., 201617 does not amount to total income, on the facts and circumstances of the case.

8. The learned CIT(A) is not justified in upholding the decision of the Assessing Officer by treating the deposits made during the financial year 2016-17 relevant to assessment year 2017-18 under 69A of the Act, on the facts and circumstances of the case.

9. *The Appellant denies the liability to pay interest under section 234A of the Act in view of the fact that there is no liability to additional tax as determined by the Assessing Officer, on the facts and circumstances of the case.”*

3. Facts of the case, in brief, are that the assessee was found to have made aggregate cash deposits of Rs.10,51,046/- in his bank accounts during the period of demonetization of specified bank notes from 08-11-2016 to 30-12-2016. As such, a notice u/s 142(1) was issued on 13-03-2018 and served upon the assessee requesting to file the Return of Income for the AY 2017-18. However, the assessee has not filed the return of income for the AY 2017-18, within the specified time in response to such notice. As the assessee has not complied with all the terms of the aforesaid notice issued u/s 142(1) of the IT Act 1961, it was decided to make 'best judgement assessment' u/s 144 of the Income Tax Act 1961 in this case and thus completed the assessment as passed assessment order u/s 144 of the Act dt.20.07.2023.

4. Feeling aggrieved with the order of Assessing Officer, assessee filed an appeal which was later migrated to ld.CIT(A), NFAC, Delhi, who dismissed the appeal of assessee.

5. Feeling aggrieved with the order of ld.CIT(A), assessee is now in appeal before me.

6. None appeared on behalf of the assessee.

7. On the other hand, the learned Departmental Representative objected to remand the matter back to the lower authorities.

8. I have heard the ld. DR and perused the material on record. In the present case, both the lower authorities passed exparte order as despite service of notice, the assessee has not appeared and complied the notices served on him. On perusal of the order of ld.CIT(A), I found that ld.CIT(A) has given a number of opportunities to the assessee to substantiate his case, which were mentioned in Para 4.1. of his order. From Para 5 of the order of ld.CIT(A), it is also evident that the ld.CIT(A) has given last opportunity by way of sending notice by e-mail to the e-mail id given in Form – 36 i.e., namireddy1994@gmail.com. Even after grant of final opportunity, assessee did not turn up and finally, ld.CIT(A) dismissed the appeal of assessee opining that assessee was not interested to prosecute his case. It was submitted by the Revenue that there was no compliance by the assessee before the Assessing Officer as well as the ld.CIT(A) and therefore, no indulgence should be given at this stage. However, in the interests of justice, I opine that one more opportunity be granted to the assessee to substantiate his case and as such, I deem it appropriate to remand back the matter to the file of Assessing Officer subject to payment of costs of Rs.3,000/- (Rupees Three Thousand only) in favour of Prime Minister National Relief Fund which shall be payable within one month or from the date of

receipt of this order or whichever is earlier. Hence, the matter is remanded back to the file of Assessing Officer with the following conditions :

- i. That the Assessing Officer shall decide the matter afresh after affording opportunity of hearing to the assessee.
- ii. The assessee shall file all the documents / evidence at the first instance and in case, the assessee failed to comply and file the documents at the first instance, the Assessing Officer shall be at liberty to decide the matter in accordance with the law.
- iii. It is made unambiguously clear that the assessee shall appear on each and every date and shall not take undue adjournment in the matter.
- iv. In case, the assessee submits a reasonable cause for seeking adjournment, the Assessing Officer shall consider the same sympathetically and grant adjournment, however, the Assessing Officer shall not grant more than two adjournments to the assessee.
- v. I expect the Assessing Officer to decide the matter within a period of six months from the date of receipt of the order.

9. Thus, the appeal of the assessee is remanded back to the file of Assessing Officer in the above terms. Accordingly, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the Open Court on 3rd October, 2023.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad, dated 3rd October, 2023.

TYNM/sps

Copy to:

S.No	Addresses
1	Janakiram Reddy Namireddy, 12-13-588/N, Street No.14, Lane No.20, Nagarjuna Nagar, Tarnaka, Secunderabad, Telangana – 500017.
2	The Income Tax Officer, Ward – 1, Nalgonda.
3	PCIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order