

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. 481/Hyd/2023
(निर्धारण वर्ष / Assessment Year: 2017-18)

Sarala Reddy Lankala, Hyderabad [PAN No. AEFPL6549C] Vs. Income Tax Officer, Ward-14(3), Hyderabad

अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Smt. S. Sandhya, AR
राजस्व द्वारा/Revenue by: Shri Raja Kumar, DR

सुनवाई की तारीख/Date of hearing: 30/10/2023
घोषणा की तारीख/Pronouncement on: 31/10/2023

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 05/07/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Sarala Reddy Lankala ("the assessee") for the assessment year 2017-18, assessee preferred this appeal, with a delay of 36 days.

2. Reason for the delay is explained by the assessee stating that she is an old lady of 73 years suffering from gerontological diseases, not having

much resources at her disposal to prosecute the tax litigation. According to her, when she approached the counsel to prefer an appeal against the orders of the learned CIT(A), she was informed that it has to be done on-line, requiring digital signature. She, therefore, submitted that obtaining digital signature resulted in delay in filing of the appeal. Though the learned DR opposed the condonation of delay, the factual submissions made by the assessee remain undisputable. Hence, I take a view in favour of the assessee and condone the delay.

3. Coming to the appeal, brief facts of the case are that the assessee is a senior citizen and a house wife by profession, and since she is not having any taxable income, no return of income was filed for assessment year 2017-18. On verification of the data relating to 'cash deposits during the demonetization period' available in AIMS module of ITBA, substantial cash deposits were noticed in the case of assessee during the demonetization period. The assessee has deposited cash to the tune of Rs. 20,78,000/- in her two bank accounts during the de-monetization period i.e. from 9th November, 2016 to 31st December 2016. Learned Assessing Officer completed the assessment under section 144 of the Income Tax Act, 1961 (for short "the Act"), by bringing the cash deposit in the bank to tax under the head 'income from other sources'.

4. Aggrieved by such an action of the learned Assessing Officer, assessee preferred appeal before the learned CIT(A). Learned CIT(A) recorded that in spite of granting two adjournments on 23/12/202 and 23/06/2023, assessee failed to appear and prosecute the appeal. He, therefore, recorded that there is no reason for him to interfere in the

absence of any material to the contrary placed by the assessee, with the additions made by the learned Assessing Officer.

5. Assessee, therefore, filed this appeal contending that the assessee in fact has the explainable sources for deposits made in the banks, but in view of her age, and lack of resources at her disposal, she could not prosecute the assessment and appellate proceedings properly more particularly in view of the fact that the appellate proceedings are in faceless mode. Learned AR submitted that neither the learned Assessing Officer nor the first appellate authority granted sufficient opportunity to the assessee having regard to her age and residence in a remote place. She submitted that in the interest of justice, an opportunity may be granted to the assessee to prove the sources of her cash deposits during that period. In support of this contention she submitted the copies of agreement of sale cum General Power of Attorney (GPA) vide Document No. 10476 of 2016 dated 05/08/2016, Fixed Deposit Statement showing the deposit of Rs. 20 lacs for A/c No. 36250808583 and SBI Bank Statement for A/c No. 10111190875.

6. Per contra, learned DR justified the action of the authorities stating that when the assessee does not herself show any interest in prosecuting the proceedings by placing relevant material explaining the deposits, there is no option for the authorities, but to conclude the proceedings ex-parte. He opposed the grant of another opportunity to the assessee stating that sufficient opportunity has already been granted by the authorities below. He further submitted that if for any reason, the additional evidence produced by the assessee is received, the verification of the same may be sent to the learned Assessing Officer for his comments.

7. I have gone through the record in the light of the submissions made on either side. It could be seen from the assessment order that the learned Assessing Officer issue notices on two occasions, namely, 02/08/2019 and 13/08/2019 before concluding the assessment proceedings. Likewise, first appellate authority also gave notices on 23/12/2020 and 23/06/2023. Most of the time before the first appellate authority was covered by covid pandemic. Having issued notice fixing the date of appearance as 30/06/2023, first appellate authority passed the order on 05/07/2023.

8. Case of assessee pleaded before me is that she received the sale consideration of land sold by her husband which was directly deposited in Fixed Deposit Receipt. Assessee produced the copies of agreement of sale cum GPA vide Document No. 10476 of 2016 dated 05/08/2016, Fixed Deposit Statement showing the deposit of Rs. 20 lacs for A/c No. 36250808583 and SBI Bank Statement for A/c No. 10111190875, to support her plea in respect of the source of such deposits.

9. Having regard to the age and avocation of the assessee, and also to her plea that being a house wife, aged about 73 years, she could not understand the purport of the notices immediately and by the time she could gather the resources, the proceedings were concluded by the authorities. As a matter of fact, in support of her contention, the assessee produced the copies of relevant documents.

10. In these circumstances, I am of the considered opinion that in the interest of justice, the findings of the authorities below have to be set aside and the issue be restored to the file of learned Assessing Officer for verification of the documents produced by the assessee. I order

accordingly. Needless to say that sufficient opportunity may be granted to the assessee to put forth her case diligently. Ground is accordingly treated as allowed for statistical purposes.

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

Order pronounced in the open court on this the 31st day of October, 2023.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 31/10/2023

TNMM

Copy forwarded to:

1. Sarala Reddy Lankala, 6-3-596/63/9/7, Erramanzil, Hyderabad.
2. The Income Tax Officer, Ward-14(3), Hyderabad.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ASSISTANT REGISTRAR
ITAT, HYDERABAD