

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

BEFORE
SHRI RAMA KANTA PANDA, VICE PRESIDENT
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 515/Hyd/2023
(निर्धारण वर्ष / Assessment Year: 2021-22)

Narigemmagari Reddy
Bramhananda,
Anantapur
[PAN: ARYPB7503N]

Vs. Income Tax Officer,
Ward-1,
Guntakal

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri E. Phalguna Kumar, AR
राजस्व द्वारा/Revenue by: Shri K. Madhusudan, CIT-DR

सुनवाई की तारीख/Date of hearing: 29/11/2023
घोषणा की तारीख/Pronouncement on: 29/11/2023

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 27/07/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Narigemmagari Reddy Bramhananda ("the assessee") for the assessment year 2021-22, assessee preferred this appeal.

2. At the outset, learned AR submitted that the hearing notices in the first appeal were served through e-mail ID on the auditor, who served the assessee nine years back and that is the reason why the assessee could not know the dates of hearing or the passing of the order under section 250 of the Income Tax Act, 1961 ('the Act'). Learned AR submitted that this is the reason why the assessee not only could not pursue the first appeal diligently, but also filed this appeal with a delay of 31 days. Learned AR, therefore, prayed that the assessee has a meritorious case, but it is only due to non-service of notice on the assessee to proper/correct address, he could not conduct the case diligently, and, therefore, an opportunity may be granted to the assessee to put forth his case diligently on merits.

3. Though the learned DR vehemently opposed grant of an opportunity to the assessee to conduct the case on merits, there is no material to controvert the fact pleaded by the assessee that there is no proper service of notice of the proceedings before the first appellate authority.

4. I have gone through the record in the light of the submissions made on either side. As stated above, the plea of the assessee is that there is no notice served properly on him during the first appellate proceedings and there is no material to convert the same. All the endeavour of these proceedings is to see that the correct tax liability of assessee is determined. When technicalities are pitted against the substantial justice, the latter must give way to the former. Since no vested rights could be pleaded in perpetuation of the ex parte orders, we are inclined to set aside the impugned order and restore the appeal to the file of the learned CIT(A) for disposal according to law, after affording an opportunity to the assessee.

Grounds of appeal are accordingly treated as allowed for statistical purposes.

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

Order pronounced in the open court on this the 29th day of November, 2023.

Sd/-
(RAMA KANTA PANDA)
VICE PRESIDENT

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 29/11/2023

TNMM

Copy forwarded to:

1. Narigemmagari Reddy Bramhananda, 1-6, Prop. Sri Gajalakshmi Oil Mill, Gajarampalli (Village), Pamidi (Mandal), Anantapur.
2. Income Tax Officer, Ward-1, Guntakal.
3. PCIT-
4. DR, ITAT, Hyderabad.
5. GUARD FILE

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD