

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

Sriramulu Yallapu, Income Tax Officer,
Kothagudem Vs. Ward-1,
[PAN No. AHKPY9028P] Kothagudem

अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri Sai Sarikonda, AR
राजस्व द्वारा/Revenue by: Shri V.M. Mahidhar, DR

सुनवाई की तारीख/Date of hearing: 18/12/2023
घोषणा की तारीख/Pronouncement on: 26/12/2023

आदेश / ORDER

Aggrieved by the order dated 28/08/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Sriramulu Yallapu ("the assessee") for the assessment year 2017-18, assessee preferred this appeal.

2. At the outset, learned AR submitted that the assessee is a retired employee of Northern Power Distribution Company Ltd., Bhadrachalam. He deposited the retirement benefits into the bank under the compulsive

circumstances of demonetization, but because of his old age and not being well conversant with the procedures, could not respond to the notices issued from time to time and that is the reason why, he could not prosecute the assessment as well as the first appellate proceedings diligently. Learned AR also submitted that by getting the matter decided adversely, the assessee does not stand to gain and, therefore, the technical incompetency of the assessee and non-availability of service of a competent person at his place resulted in the matter decided ex parte against him. He further submitted that if an opportunity is granted to the assessee and the matter is restored to the file of the learned Assessing Officer for fresh disposal, in the interest of justice, the assessee is ready to produce all the relevant material before the learned Assessing Officer in support of his contentions.

3. Per contra, learned DR vehemently opposed the prayer for granting another opportunity and submitted that the orders of the authorities below clearly show that sufficient opportunity had already been granted to the assessee.

4. I have gone through the record in the light of the submissions made on either side. The case of the assessee before the learned CIT(A) was that he is a retired employee of Northern Power Distribution Company Ltd., Bhadrachalam, on retirement from service in June 2013, he received Rs.23,75,989/- by way of retirement benefits. After retirement, he permanently shifted his place of residence from Bhadrachalam to Visakhapatnam, during the financial year relevant to assessment year 2017-18, his only source of income was pension from the employer, he had no proper guidance in the matter of furnishing returns of income and other

relevant matters, and he was under the bonafide belief that he is not required to furnish any return of income inasmuch as his only source of income is pension and as such he did not file income tax return for the assessment year 2017-18. He further pleaded that the fact of issuance of notice under section 142(1) of the Income Tax Act, 1961 (for short "the Act") dated 24/01/2018 calling for the return was not in his knowledge inasmuch as he is not conversant with the new system of e proceedings. Subsequently, in response to a show cause notice dated 09/12/2019, he furnished his reply on 12/12/2019, explaining the sources for the deposits. Again, a final show cause notice dated 28/12/2019 was issued, directing him to furnish his objections by 30/12/2019 as to why the cash deposits in the bank account amounting to Rs.20,25,000/- should not be treated as 'unexplained money' under section 69A of the Act and brought the same to tax accordingly. According to the assessee, he was afforded two days to furnish his objections against the proposed addition, which was insufficient to gather and compile information and furnish his objections. His grievance before the learned CIT(A) was that he was not afforded with sufficient and reasonable opportunity of being heard and the learned assessing officer finalized the assessment proceedings under section 144 of the Act.

5. Learned AR submitted that because of the assessee's inability in technological aspects of the service of notices, he did not have knowledge about the dates of hearing and, therefore, an opportunity may be granted. The facts pleaded by the assessee are verifiable fact. Further according to the authorities, the assessee did not furnish the supporting evidence to substantiate the deposits in the accounts of himself and his wife.

6. In these circumstances, considering the submission on behalf of the assessee that given an opportunity, the assessee would conduct the case diligently, without seeking any adjournments, I am of the considered opinion that giving an opportunity would meet the ends of justice.

7. With this view of the matter, I set aside the orders of the authorities below and restore the issue to the file of learned Assessing Officer for fresh disposal, after giving an opportunity to the assessee.

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

Order pronounced in the open court on this the 26th day of December, 2023.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 26/12/2023

TNMM

Copy forwarded to:

1. Sriramulu Yallapu, D.No. 13-3-116/1, Ashok Nagar Colony,
Bhadrachalam Post and Vil. Bhadrachalam.
2. Income Tax Officer, Ward-1, Kothagudem.
3. Pr.CIT,
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ASSISTANT REGISTRAR
ITAT, HYDERABAD