

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

Ediga Veeranjanyulu, Income Tax Officer,
Kotekal Village, Vs. Ward-1
Yemmiganur Mandal, Adoni
Kurnool
[PAN : ABQPE7155H]

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri Shashank Dundu, AR
राजस्व द्वारा/Revenue by: Shri B. Ravinder, DR

सुनवाई की तारीख/Date of hearing: 04/01/2024
घोषणा की तारीख/Pronouncement on: 11/01/2024

आदेश / ORDER

Aggrieved by the order dated 29/09/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Ediga Veeranjanyulu ("the assessee") for the assessment year 2017-18, assessee preferred this appeal.

2. Brief facts are that assessee is an agent for M.G. Brothers Motors Auto Agencies Pvt Ltd, Sriram City Union Finance Ltd, and Indusind Bank

Ltd., and other various entities, and filed the return for the assessment year 2017-18 on 31/08/2017 declaring income at Rs. 4,37,960/-. Learned Assessing Officer recorded that there were deposits in the bank account of the assessee to the tune of Rs. 1,58,22,134/- during the year and Rs. 6,51,500/- during the demonetization period, out of which, a sum of Rs. 4.65 lakhs were in specified bank notes on thirteen different dates. Learned Assessing Officer issued notice to the assessee, calling for explanation as to why the deposit in specified bank notes to the tune of Rs. 4.65 lakhs shall not be treated as 'un-explained money' and also why not the income be estimated at 8% on the aggregate credits in the bank account. Having received the explanation of the assessee, learned Assessing Officer considered a sum of Rs. 1,08,18,410/- and Rs. 2,66,047/- the sums which were transferred to MGB Augo Agencies and Sri Ram Finances to be excluded from the deposits. So also, he excluded a sum of Rs. 16,20,300/- towards sale of spare parts. He added the remaining amount of Rs. 31,17,377/- to the income of the assessee.

3. Aggrieved, assessee preferred appeal before the learned CIT(A). According to the learned CIT(A), in spite of notices issued on 04/02/2020, 11/01/2021, 05/11/2021, 15/11/2021, 24/07/2023 and finally on 15/09/2023, assessee did not appear and file any written submissions and, therefore, the learned CIT(A) deemed that assessee has not evidence to submit and decided the matter ex parte, upholding the addition so made and dismissed the appeal. Hence, assessee preferred this appeal.

4. Learned AR submitted that in the show cause notice issued, the learned Assessing Officer called for the explanation of the assessee only in respect of the treatment of the specified bank notes and estimation of

income at 8% on the aggregate credits in the bank accounts, but in the assessment order, learned Assessing Officer made an addition of Rs. 31,17,377/- being the difference between the bank deposits and the transfers made to M.G. Brothers Motors Auto Agencies Pvt Ltd and Sriram City Union Finance Ltd., and the sum representing the sale of spare parts. Even in the demand also, the learned Assessing Officer determined the income from business at Rs. 12,39,331/- and also Rs. 31,17,377/- being the difference between the bank deposits and the transfers made to M.G. Brothers Motors Auto Agencies Pvt Ltd and Sriram City Union Finance Ltd., and the sum representing the sale of spare parts. Grievance of the assessee on this aspect is that without calling for the explanation of the assessee, this Rs. 31,17,377/- is added.

5. He further submitted that the learned CIT(A) also failed to notice this discrepancy in the assessment order while deciding the issue. Learned AR submitted that the notices were sent by the learned CIT(A) through e-mail and because of the newly introduced procedures and not being accustomed to the same, such notices through e-mail, missed the attention of the assessee. Learned AR submits that given an opportunity, the assessee is ready to co-operate with the learned Assessing Officer by submitting all the material to establish that the cash deposits were part of his sales or that 8% estimation is too high in the line of business.

6. Per contra, learned DR submitted that the assessee did not explain anything before the learned Assessing Officer, except submitting a copy of income computation sheet, P&L Account and Balance Sheet for the assessment year 2017-18. Even before the learned CIT(A) also assessee failed to avail the opportunity and, therefore, no further opportunity need

be given. According to the learned DR, the additions are quite justifiable and no interference with the same is necessary.

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 itself that by way of show cause notice, the learned Assessing Officer invited the attention to the deposits in specified bank notes and also called for explanation as to why estimate at 8% on the aggregate credits in the bank account should not be made. From the computation sheet with demand notice, I found that the learned Assessing Officer made an addition of Rs. 12,38,331/-. However, learned Assessing Officer also added Rs. 31,17,377/- being the difference between the total deposits in the bank and the amounts transferred to M.G. Brothers Motors Auto Agencies Pvt Ltd., and Sriram City Union Finance Ltd., and the sum representing the sale of spare parts. I find some force in the grievance of the assessee that without giving an opportunity to him, this addition is made.

8. I also find that there is nothing suspicious in the submission of the assessee that having not been accustomed to the new procedures, the assessee missed the notices sent through e-mail and thereby could not participate in the proceedings. In these facts and circumstances, I am of the considered opinion that granting an opportunity would meet the ends of justice to put forth his case before the learned Assessing Officer on all the issues under enquiry.

9. In these circumstances of the case, I set aside the impugned order and restore the matter to the file of learned Assessing Officer for taking a view according to law, after hearing the assessee. I make it clear that it is

the last opportunity to the assessee to get the matter disposed of on merits.

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

Order pronounced in the open court on this the 11th day of January, 2024.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 11/01/2024

TNMM

Copy forwarded to:

1. Ediga Veeranjaneeyulu, # 1/55/40, Kotekal Village, Yemmiganur Mandal, Kurnool Dist.
2. Income Tax Officer, Ward-1, Adoni.
3. Pr.CIT,
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ASSISTANT REGISTRAR
ITAT, HYDERABAD