

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

Before Shri R.K. Panda, Vice-President
AND
Shri Laliet Kumar, Judicial Member

आ.अपी.सं / **ITA No.580/Hyd/2023**
(निर्धारण वर्ष / Assessment Year: 2020-21)

Shri Dadi Akhil Secundrabad PAN:AHJPA1911C (Appellant)	Vs.	Asstt. C. I. T. Central Circle 3(2) Hyderabad (Respondent)
निर्धारिती द्वारा / Assessee by:	Shri K.A. Sai Prasad, CA	
राजस्व द्वारा / Revenue by:	Shri Shakeer Ahmed, DR	
सुनवाई की तारीख / Date of hearing:	16/01/2024	
घोषणा की तारीख / Pronouncement:	16/01/2024	

ORDER

Per R.K. Panda, Vice-President

This appeal filed by the assessee is directed against the order dated 5.9.2023 of the learned CIT (A)-11, Hyderabad, relating to A.Y.2020-21.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the order of the learned CIT (A) in confirming the addition of Rs.35,88,126/-.

3. Facts of the case, in brief, are that the assessee is a doctor by profession and has filed his return of income for the A.Y 2020-21 on 31.12.2020 declaring total income of Rs.6,17,83,070/-. The return was revised on 31.03.2021 declaring total income at Rs.6,22,24,890/-. Subsequently, the

return was re-revised on 11.05.2022 declaring total income of Rs.6,58,13,020/-. The case was selected for scrutiny under CASS and statutory notices u/s 143(2) & 142(1) were issued and served on the assessee by calling for various details. In response to the same, the assessee filed written submission through ITBA/Tapal.

4. During the course of assessment proceedings, it was submitted that there was an error in filing the re-revised return of income. It was submitted that in the re-revised return of income, the assessee declared income from business to the tune of Rs.5,14,79,351/- as compared to the revised return filed on 31.03.2021 declaring an income of Rs.4,78,91,225/-. It was erroneously re-revised by declaring total income at Rs.6,22,24,890/-. However, the Assessing Officer was not satisfied by the arguments advanced by the assessee on the ground that the assessee himself has declared total income of Rs.6,58,13,020/-. Relying on the decision of the Hon'ble Supreme Court in the case of Goetze India Ltd vs. CIT (2006) 284 ITR 323 (S.C), the Assessing Officer held that the claim of the assessee is not valid without a valid re-revised return of income. He accordingly determined the total income of the assessee at Rs.6,58,13,020/-.

5. Since the assessee did not appear before the learned CIT (A) despite number of opportunities granted, the learned CIT (A) dismissed the appeal filed by the assessee both on account of non-appearance and also by upholding the order of the Assessing Officer in absence of any contrary material brought before him.

6. Aggrieved with such order of the learned CIT (A), the assessee is in appeal before the Tribunal.

7. The learned Counsel for the assessee submitted that due to issue of notice through a wrong email-ID, the assessee could not appear before the learned CIT (A) on some occasions. He submitted that in the interest of justice, the assessee should be given an opportunity to substantiate his case before the learned CIT (A). He accordingly submitted that the matter may kindly be restored to the file of the learned CIT (A) with a direction to grant an opportunity to the assessee to substantiate his case.

8. The learned DR, on the other hand, strongly opposed the arguments advanced by the assessee. Referring to the order of the learned CIT (A) he submitted that the assessee was given number of opportunities to substantiate his case which the assessee did not avail of. Further, the assessee has filed the re-revised return which is not as per law. He accordingly submitted that the order of the learned CIT (A) should be upheld.

9. We have heard the rival arguments made by both the sides, perused the orders of the AO and the learned CIT (A) and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us by both sides. We find the assessee in the instant case filed the return of income on 31.12.2020 declaring total income of Rs.6,17,83,070/- which was revised on 31.3.2021 declaring total income of Rs.6,22,24,890/-. Subsequently, the return was re-revised on 11.05.2021 declaring total income of Rs.6,58,13,020/- wherein an amount of Rs.35,88,126/- was disallowed Suo moto on account of personal expenses. We find the assessee before the Assessing Officer submitted that the re-revised return of income declaring income of Rs.6,58,13,020/- should be ignored since there was an erroneous addition of Rs.35,88,126/- on account of disallowance

of personal expenses. We find the Assessing Officer relying on the decision of the Hon'ble Supreme Court in the case of Goetze India Ltd vs. CIT (Supra) rejected the arguments advanced by the assessee on the ground that the claim of the assessee is not filed through a valid re-revised return of income. We find since the assessee did not appear before the learned CIT (A) despite number of opportunities granted, the learned CIT (A) dismissed the appeal filed by the assessee on account of non-prosecution. Even on merit also, he decided the appeal against the assessee in absence of any material to controvert the findings of the Assessing Officer. It is the submission of the learned Counsel for the assessee that given an opportunity, the assessee is in a position to substantiate his case before the learned CIT (A) by filing documentary evidences to the satisfaction of the learned CIT (A). Considering the totality of the facts of the case and in the interest of justice we deem it proper to restore the issue to the file of the learned CIT (A) with a direction to grant one final opportunity to the assessee to substantiate his case by filing the necessary documents and decide the issue as per fact and law. The assessee is also hereby directed to appear before the learned CIT (A) and file the requisite documents as asked by him without seeking any adjournment under any pretext failing which the learned CIT (A) is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the Open Court at the time of hearing itself
i.e. today on 16th January, 2024.

Sd/- (LALIET KUMAR) JUDICIAL MEMBER	Sd/- (R.K. PANDA) VICE-PRESIDENT
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Hyderabad, dated 16th January, 2024

Vinodan/sps

Copy to:

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3	Pr. CIT – Central, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order