

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “SMC”, HYDERABAD**

BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.633/Hyd/2023		
Assessment Year: 2017-18		
Rohit Manepally, H.No.3-6-195/B, Flat No.102, Gowri Apartments, Urduhall Lane, Himayatnagar, Telangana, Pin – 500029. PAN : APLPM6847B.	Vs.	The Income Tax Officer, Ward 8(3), Hyderabad.
(Appellant)		(Respondent)
Assessee by:		Shri T.Chaitanya Kumar, Advocate.
Revenue by:		Shri T. Venkanna, SR.AR
Date of hearing:		17/01/2024
Date of pronouncement:		22/01/2024

ORDER

PER LALIET KUMAR, J.M.

The appeal of the assessee for A.Y. 2017-18 arises from the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dt.30.10.2023 invoking proceedings under section 143(3) of the Income Tax Act, 1961 (in short, “the Act”).

2. The grounds raised by the assessee read as under :

“ 1. The order of the teamed (Commissioner of Income-tax (Appeals) is erroneous both on facts and in law, without giving any proper opportunity.

2) The order of the learned Commissioner of Income-tax (Appeals) is erred passing an order without giving any proper opportunity to the Ex-facie, is illegal arbitrary and violative of the principles of natural justice.

3) The impugned order passed by the learned Commissioner of Income-tax (Appeals) u/s 250 of the Income Tax Act 1961 in confirming the action of the assessing officer order dated 11-12-2019 passed u/s the I.T Act is illegal arbitrary, without assigning any valid reasons, and is totally perverse, highhanded.

4) The learned Commissioner of Income-tax (Appeals) erred in confirming the action of the Assessing Officer in making addition of Rs.18,11,900/-in treating credit payments as income u/s 68 to 69D of the IT act without giving any proper opportunity, is illegal arbitrary, without assigning any valid reasons, and is perverse, highhanded.

5) The learned Commissioner of Income-tax (Appeals) erred in confirming the action of the assessing officer in treating an amount of Rs 18,11,900/- income of the appellant without mentioning any specific section and further erred in without mentioning the nature of income.

6) The learned Commissioner of Income-tax (Appeals) erred in confirming the action of the assessing officer in applying the provisions u/s 69A and further erred in applying the provisions u/s 115BBE of the IT act.

7) The order of the learned Commissioner of Income-tax (Appeals) is arbitrary, illegal and contrary to the provisions of law

8) The very approach of the learned Commissioner of Income-tax (Appeals) / NFAC in passing an order u/s250 ex-party without giving any proper opportunity to confirm the action of the Assessing Officer in treating credit payments as income u/s 68 to 69D of the IT act without giving any proper opportunity, is illegal arbitrary, without assigning any valid reasons, and is perverse, highhanded is contrary to the provisions law, therefore the order passed by the Learned Commissioner of Income Tax(appeals)NFAC dated 30-10-2023 is illegal ex-facie and violative of principals of natural justice.

9) *The learned Commissioner of Income-tax (Appeals) is erred in charging interest u/s 234A of Rs.1,13,160 and 234B of Rs 4,66,785/-.*

4. The brief facts of the case are that assessee is an individual, who filed his return of income for the A.Y. 2017-18 on 01.03.2018 declaring the total income at Rs.3,92,480/-. The case of the assessee was selected for scrutiny through CASS to verify "Credit Card Payments". Various notices issued by the AO were complied with by the assessee. On perusal of the information submitted, the AO noticed that the assessee had made a cash payment amounting to Rs.18,11,900/- towards Credit Card purchase during the F.Y 2016-17 relevant to A.Y 2017-18. The AO issued a show cause to the assessee requiring him to explain the sources for the cash payment of Rs.18,11,900/- towards credit card purchases during the year under consideration. The submission made by the assessee regarding the source of the cash payment of Rs 18,11,900/- to credit card purchase during the F.Y 2016-17 did not favour the assessee as the AO was of the view that the assessee had failed to furnish satisfactory/proper explanation. Therefore, the AO completed the assessment u/s 143(3) of the Act treating the cash payment of Rs.18,11,900/- as unexplained money in the hands of the assessee as per section 69A of the Act and chargeable to tax 60% u/s 115BBE of the Act and thereby determined the total income at Rs.22,04,380/-.

5. Feeling aggrieved with the order of Assessing Officer assessee filed an appeal, which was later migrated to the Id.CIT(A), NFAC, Delhi, who dismissed the appeal of assessee.

6. Before me, ld.AR submitted that assessee could not appear before the ld.CIT(A) as the email ID given by the assessee was of the assessee and not of counsel. Hence, the notices were sent to the assessee and not to the counsel and further submitted that assessee is not aware about the technical procedure of obtaining the assessment order. Ld.AR further submitted that as the assessee has sufficient evidence to substantiate his case, matter may kindly be remitted back to the authorities below for afresh adjudication.

7. Per contra, the ld.DR has not raised any objection for remanding the matter back to the file of lower authorities.

8. I have heard the rival contentions of both the parties and perused the material available on record and also the order passed by the lower authorities. On perusal of the impugned order passed by ld.CIT(A), I found that ld.CIT(A) passed an exparte order confirming the action of the Assessing Officer in his assessment framed on 11.12.2019. Perusal of the impugned order shows that the merits of the assessee's appeal before the ld.CIT(A) have neither been discussed nor decided by the ld.CIT(A). In view of the above reasons, in my view, the ends of justice will be met if the matter is remanded back to the file of ld.CIT(A) with a direction to decide the issue after considering the documents available on record and affording the opportunities of hearing to the assessee in accordance with law.

9. The assessee shall be at liberty to file documents, if any, as required for proving his case and the ld.CIT(A) shall consider the evidences, if any, filed by the assessee. Needless to say the ld.CIT(A) shall examine those documents / evidence filed by the assessee and also the other documents available on record. After considering the documents filed by the assessee and the submissions made by the assessee, the ld.CIT(A) shall pass a detailed speaking order dealing with the contentions of the assessee. I have not adjudicated the other grounds on merits as I am setting aside the orders passed by the lower authorities to the file of ld.CIT(A) for fresh adjudication. Needless to say, I have not adjudicated any other ground, all the grounds are required to be adjudicated by the ld.CIT(A) in the remand proceedings. Accordingly, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the Open Court on 22nd January, 2024.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad, dated 22nd January, 2024.

TYNM/sps

Copy to:

S.No	Addresses
1	Rohit Manepally, H.No.3-6-195/B, Flat No.102, Gowri Apartments, Urduhall Lane, Himayatnagar, Telangana, Pin - 500029.
2	The Income Tax Officer, Ward 8(3), Hyderabad.
3	PCIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order