

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

**BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER**

ITA No.655/Hyd/2023		
Assessment Year: 2017-18		
Shankaraiah Telakapalli, 4-10-520/CS/1, Sainagar Colony, Ward-24, Nalgonda, Telangana - 508001.  PAN : ALIPT1315Q.	Vs.	The Income Tax Officer, Ward – 1, Nalgonda.
(Appellant)		(Respondent)
Assessee by:		Shri S. Phanindra, Advocate.
Revenue by:		Shri T. Venkanna, Sr.A.R.
Date of hearing:		18/01/2024
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.24.02.2023 invoking proceedings under section 144 of the Income Tax Act, 1961 (in short, “the Act”).

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

*“ 1. On the facts and in the circumstances of the case, the order of the Ld.CIT(A) erroneous and unsustainable in law.*

*2. The ld. CIT(A) erred in upholding the order of the Assessing Officer wherein the AO has not allowed housing loan interest of Rs. 1,76,160 u/s.24 of the Act though the same is appearing in Form 16 of the Appellant on the ground that the Appellant has not filed his return of income.*

*3. The Ld.CIT(A) erred in upholding the order of the AO wherein the AO has not allowed deduction of Rs.1,50,000/- u/s.80C of the Act, Rs.120 u/s.80G of the Act, Rs.45,924 u/s.80E of the Act though the same is appearing in Form 16 of the Appellant on the ground that the Appellant has not filed his return of income.*

*4. The authorities below erred in not allowing the TDS credit of Rs.42,656 while computing the income while the same is appearing in Form 26AS of the Appellant.”*

3. The appeal filed by the assessee is barred by limitation by 246 days. He has moved a condonation application explaining reasons thereof. I have heard both the parties on this preliminary issue. Having regard to the reasons given in the petition, I allow the application for condonation of delay subject to assessee's undertaking that he visits Goshala of his choice and treats ailing cows. Accordingly, the delay is condoned and the appeal of the assessee is admitted for hearing.

4. The brief facts of the case are that assessee made aggregate cash deposits of Rs.13,87,969/- in his bank accounts during the period of demonetization of specified bank notes from 08-11-2016 to 30-12-2016. As such, a notice u/s 142(1) was issued on 13.03.2018 and served upon the assessee requesting to file the Return of Income for the AY 2017-18. However, the assessee has not

filed the return of income for the AY 2017-18 within the specified time in response to such notice. As the assessee has not complied the aforesaid notice issued u/s 142(1) of the IT Act 1961, the AO completed the assessment u/s. 144 on 17/12/2019, determining the assessee's total income at Rs.18,87,018/- by treating the cash deposits aggregating to Rs.6,83,000/- made in bank accounts during the demonetization period as the income of the assessee u/s 69A of the Act and taxed under provisions of section 115BBE of the Act and estimated income at Rs. 12,04,018/- @ 8% of credits of Rs. 1,50,50,222/- in bank accounts.

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, Id.AR submitted that Assessing Officer did not allow any deductions mentioned in Form 16 and did not even mention the reasons for not allowing the same in his order and that the Ld.CIT(A) has wrongly relied on the decision of Hon'ble Supreme Court in the case of Goetze India Limited Vs. CIT reported in (2006) 157 taxman 1 (SC). He further submitted that if the assessee was given a chance, then the assessee would be in a position to explain the sources of deposits made during the demonetization period.

7. Per contra, the Id.DR has raised 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. Ld.CIT(A) has dismissed the appeal of assessee on the ground that the evidence filed by the assessee was not available with the Assessing Officer and for that purposes, the Ld.CIT(A) relied on the decision of Goetez India Pvt. Limited Vs. CIT (supra). It is the case of the learned Authorised Representative that assessee is a salaried Government employee, working as a Veterinary Live Stock Officer in Nalognda District of Telangana and is drawing a salary of more than Rs.10 lakhs. The Assessing Officer as well as the Ld.CIT(A) added back the salary income of the assessee as the assessee has shown Form 16 to the lower authorities. Further, the Ld.CIT(A) has not given the deduction of interest paid on education loan. It was submitted that the assessee was given a chance, the assessee would be in a position to explain the sources of deposits made during the demonetization period. Considering the facts and circumstances of the case, I deem it appropriate to remand back the matter to the file of ld.CIT(A) with a direction to consider and admit the evidence filed by the assessee and decide the issue in accordance with law subject to payment of costs of Rs.2,000/- (Rupees Two Thousand only) in favour of Prime Minister National Relief Fund which shall be payable within one month or from the date of receipt of this order or whichever is earlier.

9. Accordingly, the appeal of the assessee is remanded back to the file of ld.CIT(A) with a direction to decide the appeal denovo after affording due opportunity of hearing to the assessee. The ld.CIT(A) shall consider the submissions of assessee including the submission that salary income and education were wrongly added to the income

while making addition in the hands of the assessee. On the date of the hearing fixed by the Id.CIT(A), the assessee shall file all the documents in support of his case. In case, the assessee failed to file any documents in support of his case, Id.CIT(A) shall decide the matter in accordance with the law. Thus, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the Open Court on 22<sup>nd</sup> January, 2024.

Sd/-  
**(LALIET KUMAR)**  
**JUDICIAL MEMBER**

Hyderabad, dated 22<sup>nd</sup> January, 2024.

**TYNM/sps**

Copy to:

S.No	Addresses
1	Shankaraiah Telakapalli, 4-10-520/CS/1, Sainagar Colony, Ward-24, Nalgonda, Telangana - 508001.
2	The Income Tax Officer, Ward – 1, Nalgonda.
3	PCIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*