

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

Before Shri R.K. Panda, Vice-President
AND
Shri K. Narasimha Chary, Judicial Member

आ.अपी.सं / **ITA No.669/Hyd/2023**
(निर्धारण वर्ष/Assessment Year: 2017-18)

Shri Srinivas Cheedara Hyderabad PAN:AEAPC3856J (Appellant)	Vs.	Income Tax Officer Ward 9(4) Hyderabad (Respondent)
निर्धारित द्वारा/Assessee by:	Shri Mohd. Afzal, Advocate	
राजस्व द्वारा/Revenue by::	Shri S. Mookambikeyan, DR	
सुनवाई की तारीख/Date of hearing:	13/02/2024	
घोषणा की तारीख/Pronouncement:	14/02/2024	

ORDER

Per R.K. Panda, Vice-President.

This appeal filed by the assessee is directed against the ex-parte order dated 25.10.2023 of the learned CIT (A)-NFAC Delhi Hyderabad, relating to A.Y.2017-18.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the ex-parte order of the learned CIT (A) NFAC in confirming the addition of Rs.53,41,600/- made by the Assessing Officer u/s 69A r.w.s.115BBE of the I.T. Act being the cash deposits in the Bank Account as unexplained money.

3. There is a delay of 6 days in filing of the appeal by the assessee for which the assessee has filed a condonation

petition along with an affidavit explaining the reasons for such delay which is due to the ill health of the assessee. After considering the condonation application filed along with the affidavit and after hearing the learned DR, the delay in filing of this appeal is hereby condoned and the appeal is admitted for adjudication.

4. Facts of the case, in brief, are that the assessee is an individual and had not filed his return of income for the impugned A.Y within due date u/s 139(1) of the I.T. Act. As per the information available with the I.T. Deptt, the assessee had deposited cash of Rs.31,02,500/- during the period 9.11.2016 to 31.12.2016 in his Bank Account bearing No.235010100008327 maintained with Axis Bank, Dilsukhnagar, Hyderabad. Accordingly, the case of the assessee was selected and notice u/s 142(1) of the I.T. Act was issued through AIMS module of ITBA. Although the notice was sent through RPAD, the assessee did not file any return of income in response to the same for which the Assessing Officer issued another show-cause letter to the assessee asking him to explain as to why the assessment should not be completed ex-parte u/s 144 based on the strength of the material available on record. In response to the same, the AR of the assessee submitted that due to the bad health of the assessee, the return could not be filed. The Assessing Officer, thereafter, obtained bank statement by issuance of notice u/s 133(6) of the I.T. Act. From the information so received, he noted that the assessee has made cash deposit of Rs.31,02,500/- during the period between 9.11.2016 to 30.12.2016. Similarly, he noted the total cash deposits for the F.Y 2016-17 are Rs.53,41,600/-. Due to the persistent non-compliance of the assessee to the statutory

notices, the Assessing Officer completed the assessment u/s 144 determining the total income of the assessee at Rs.53,41,600/- by making the addition of such cash deposits u/s 69A r.w.s. 115BBE.

4.1 Since the assessee did not appear before the learned CIT (A) NFAC, despite 4 opportunities granted, the learned CIT (A) NFAC dismissed the appeal filed by the assessee.

5. Aggrieved with such order of the learned CIT (A) NFAC confirming the addition made by the Assessing Officer, the assessee is in appeal before the Tribunal.

6. The learned Counsel for the assessee submitted that the assessee is quite old and is suffering from various ailments for which all these unfortunate events have happened. He submitted that in the interest of justice, the assessee should be given one opportunity to substantiate his case by producing the requisite details before any of the lower authorities.

7. The learned DR, on the other hand, strongly objected to the arguments advanced by the learned Counsel for the assessee. Referring to the assessment order as well as the order of the learned CIT (A) NFAC, he submitted that despite number of opportunities granted, the assessee never bothered to file the return of income or furnish the requisite details substantiating the nature and source of cash deposits made into the Bank Account. He accordingly submitted that the order of the learned CIT (A) NFAC should be upheld and the grounds raised by the assessee should be dismissed.

8. 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 had not filed the return of income u/s 139(1) or in response to the notice u/s 142(1) of the I.T. Act . Further despite number of opportunities granted by the Assessing Officer the assessee did not explain the nature and source of cash deposit of Rs.53,41,600/- made into the Bank Account maintained with Axis bank for which the Assessing Officer was constrained to complete the assessment u/s 144 of the I.T. Act wherein he made addition of Rs.53,41,600/- u/s 69A r.w.s. 115BBE. We find despite 4 opportunities granted by the learned CIT (A) NFAC, the assessee did not respond to such notices by filing the requisite details for which the learned CIT (A) NFAC dismissed the appeal filed by the assessee. It is the submission of the learned Counsel for the assessee that due to the bad health of the assessee, who is a senior citizen, he could not file the return of income or furnish the requisite details before the lower authorities. It is also his submission that given an opportunity, the assessee is in a position to substantiate his case by filing the requisite details and substantiate the nature and source of the cash deposits made into the Bank Account. 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 Assessing Officer with a direction to grant an opportunity to the assessee to substantiate the nature and source of the cash deposits made into the Bank Account by producing the relevant details. The Assessing Officer shall decide the issue as per fact and law after giving due opportunity of being heard to the assessee. The assessee is also

hereby directed to participate in the assesment proceedings and file the requisite details failing which the Assessing Officer 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.

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

Order pronounced in the Open Court on 14th February, 2024.

Sd/-

Sd/-

(K. NARASIMHA CHARY) JUDICIAL MEMBER	(R.K. PANDA) VICE-PRESIDENT
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Hyderabad, dated 14th February, 2024

Vinodan/sps

Copy to:

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

By Order