

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "B", HYDERABAD

BEFORE  
SHRI RAMA KANTA PANDA, VICE PRESIDENT  
&  
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 507/Hyd/2023  
(निर्धारण वर्ष / Assessment Year: 2016-17)

C. Eswara Reddy and Co., Nandyal [PAN : AACFC7761J]	Vs. Deputy Commissioner of Income Tax, Circle-1, Kurnool
अपीलार्थी / Appellant	प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri M. Chandramouleswara Rao, AR  
राजस्व द्वारा/Revenue by: Shri K. Meghnath Chowhan, CIT-DR

सुनवाई की तारीख/Date of hearing: 11/03/2024  
घोषणा की तारीख/Pronouncement on: 15/03/2024

आदेश / ORDER

**PER K. NARASIMHA CHARY, J.M:**

Aggrieved by the order dated 21/08/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of C. Eswara Reddy & Co., ("the assessee") for the assessment year 2016-17, assessee preferred this appeal.

2. Brief facts of the case are that the assessee is a partnership firm engaged in the business of civil contractors. For the assessment year 2016-17, it filed the return of income on 17/10/2016, declaring total income of Rs. 3,34,83,130/- under normal provisions of the Income Tax Act, 1961 (for short "the Act"). The assessment was completed by learned Assessing Officer under section 143(3) of the Act on 04/06/2018 making an addition of Rs. 15,64,174/-. Subsequently the case was selected by the learned Ld. PCIT, Tirupati for revision under section 263 of the Act, passed a revision order and set aside the assessment and directed the learned Assessing Officer to redo the assessment in accordance with law. Hence the learned Assessing Officer reassessed the income of the assessee under section 143(3) read with section 263 read with section 144B of the Act on 31/03/2022 and assessed at total income at Rs. 21,44,05,910/-

3. Aggrieved, assessee preferred appeal before the learned CIT(A), but according to the learned CIT(A), in spite of issuance of notices, failed to furnish any information to substantiate its case. Hence, the learned CIT(A) dismissed the appeal vide order dated 21/08/2023.

4. Feeling aggrieved with the order of learned CIT(A), the assessee is now in appeal before us, contending that the authorities erred in declining sufficient opportunity to the assessee in proving the sub contracts details. It is further contended that the learned CIT(A) has passed the order, without providing proper opportunity. Learned AR further submitted that the assessee does not stand to gain by allowing the appeal to be disposed of without any documentary evidence being produced and it is only due to the reasons beyond the control of the assessee, the assessee could not

produce the documents. He further submitted that given an opportunity, the assessee is now ready to produce all such material and conduct the proceedings diligently and get the matter disposed of on merits.

5. Per contra, learned DR placed heavy reliance on the orders of the authorities below, and submitted that sufficient opportunity has already been given by the authorities and as the impugned order evidences about four opportunities were afforded to the assessee, but the assessee failed to avail the same. He opposed grant of further opportunity to the assessee.

6. We have gone through the record in the light of the submissions made on either side. It could be seen from the orders of the authorities that the assessee failed to produce the details like, details of nature of work done by sub-contractors, copy of contract agreement made with sub-contractors, confirmation account statements from sub-contractors, copy of return of income of sub-contractors for the assessment year 2016-17, copy of bills/voucher raised, which resulted in passing the orders without consideration thereof. It is a fact that the assessee does not stand to gain by not producing such documents.

7. Be that as it may, now that the assessee is ready to produce all such documentary evidences in support of its contentions and get the matter disposed of on merits. The highest that would happen by allowing an opportunity to the assessee is that a cause would be decided on merits. With this view of the matter, we are of the view that a fresh opportunity should be given to the assessee and, accordingly, we set aside the impugned order and restore the issue to the file of the learned CIT(A) for

passing a fresh order on merits, after affording the opportunity of hearing to the assessee. Grounds of appeal are answered accordingly.

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

Order pronounced in the open court on this the 15<sup>th</sup> day of March, 2024.

Sd/-  
**(RAMA KANTA PANDA)**  
**VICE PRESIDENT**

Sd/-  
**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

Hyderabad,  
Dated: 15/03/2024

TNMM

Copy forwarded to:

1. M/s. C. Eswara Reddy & Co., Flat No. 105, Sailok Enclave, Sapthagiri Nagar Nandyal.
2. Dy. Commissioner of Income Tax, Circle-1, Kurnool.
3. Pr.CIT
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ASSISTANT REGISTRAR  
ITAT, HYDERABAD