

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, BENGALURU BENCH
BENGALURU**

**BEFORE SHRI N. K. CHOUDHRY, JM &
SHRI LAXMI PRASAD SAHU, AM**

I.T.A. No.227/BANG/2024
(Assessment Year: 2018-19)

Shri Gandhi Bharat Laxman
No.196/2, Ground Floor,
21st Cross, SR Road, Ejipura,
Bengaluru – 560 047

**Income Tax Officer, Ward
7(2)(3),**
Vs. Bengaluru,

PAN No. **ACQPL6197F**

(Appellant) : (Respondent)

Appellant/Assessee by : Shri Abdul Muqheet Pasha, Adv.
Respondent/Department by : Shri Subramanian. S, JCIT

Date of Hearing : 12.03.2024
Date of Pronouncement : 12.03.2024

ORDER

Per N. K. Choudhry, JM:

This appeal has been preferred by the Assessee against the order dated 13.12.2023, impugned herein, passed by National Faceless Appeal Centre (NFAC), Delhi/Ld. Commissioner of Income Tax (Appeals) [in short 'Ld. Commissioner'] under section 143(3) r.w.s. 144B of the Income Tax Act 1961 (in short 'the Act') for the Assessment Year (in short 'AY') 2018-19.

2. In the instant case, the Assessing Officer (in short 'AO') vide assessment order dated 26.4.2021 u/s. 143(3) r.w.s. 144B of the Act made the addition of Rs.48,04,062/- on account of disallowance u/s. 69C of the Act and added the same to the total income of the Assessee and taxed as per the provisions of the section 115BBE of the Act. The Assessee being aggrieved challenged the said addition before the Id. Commissioner, who in the appellate proceedings though afforded various opportunities to the Assessee by sending notices, however, the Assessee failed to avail the same and therefore in the absence of any details and documents and non-compliance to the notices by the Assessee, the Id. Commissioner dismissed the appeal of the Assessee and consequently affirmed the said addition made by the AO. Before us, the Ld. Counsel for the Assessee has claimed that the Assessee is a poor Assessee and assessment proceedings were carried out during the corona period (Covid 2019) when the entire nation was on hold and resulted into the passing of the order dated 26.4.2021 u/s/ 143(3) r.w.s. 144B of the Act. Thereafter during the Covid-19 period itself, the Assessee instituted his first appeal dated 7.9.2021 before the Id. Commissioner. As it clearly appears from the para 5 of the impugned order that the said appeal infact was taken into consideration by issuing the notices and fixing for hearing in the

month of November, 2023 and December, 2023 only and therefore the Assessee could not get the notices in time, which resulted into non-filing of the relevant documents during the appellate proceedings before the Id. Commissioner.

3. On the contrary the Ld. DR refuted the claim of the Assessee.

4. We have considered the peculiar facts and circumstances of the case, as in the absence of any details/evidence/documents which the Assessee failed to file, the Id. Commissioner in the constrained circumstances was unable to decide the appeal of the Assessee, in its true spirit and right perspective and therefore considering the peculiar facts and circumstances in totality and for the just decision of the case and ends of justice, we are inclined to remand the instant case to the file of the Id. Commissioner for decision afresh, suffice to say by giving reasonable opportunity to the Assessee to substantiate its case.

We are also inclined to direct the Assessee to comply with the notices and co-operate with the appellate proceedings and file the relevant documents/submissions in support of its claim before the Id. Commissioner and in case of further default, the Assessee shall not be entitled for any leniency.

Thus the case is remanded accordingly, in the aforesaid terms.

5. In the result appeal filed by the Assessee, stands allowed for statistical purposes.

Order pronounced in the open court on 12.03.2024 during virtual hearing.

Sd/-
(Laxmi Prasad Sahu)
Accountant Member

Sd/-
(N. K. Choudhry)
Judicial Member

Mini, Sr.PS.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai