

**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.288/BANG/2024  
(Assessment Year: 2017-18)

**M/s. Kiran Enterprises**  
1<sup>st</sup> Floor, City Complex,  
JC Road, Tumakuru  
– 572101 {Karnataka}

**Income Tax Officer,  
Ward 1 & TDS,**  
Vs. Tumkur

PAN No. **AADFK3444R**

**(Appellant) : (Respondent)**

**Appellant/Assessee by** : Shri Sandeep Chalapathy, CA  
**Respondent/Department by** : Shri Subramanian. S, JCIT

**Date of Hearing** : 14.03.2024  
**Date of Pronouncement** : 14.03.2024

ORDER

**Per N. K. Choudhry, JM:**

This appeal has been preferred by the Assessee against the order dated 22.12.2023, impugned herein, passed by National Faceless Appeal Centre (NFAC), Delhi/Ld. Commissioner of Income Tax (Appeals) [in short 'Ld. Commissioner'] under section 143(3) of the Income Tax Act 1961 (in short 'the Act') for the Assessment Year (in short 'AY') 2017-18.

**2.** In the instant case, the Assessing Officer (in short 'AO') vide assessment order dated 9.12.2019 u/s. 143(3) of the Act, made the addition of Rs.1,25,00,000/- u/s. 68 of the Act as un-explained cash deposits made with the bank account maintained by the Assessee with TMC Bank. The Assessee being aggrieved challenged the said addition before the Id. Commissioner, who by issuing notices for the dates of hearing on 21.11.2023 and 6.12.2023 granted the opportunities to the Assessee, however, the Assessee failed to avail the same and therefore in the constrained circumstances, the Id. Commissioner on the basis of the record available, disposed of the appeal on merits and ultimately by dismissing the appeal of the Assessee, affirmed the addition of Rs.1,15,00,000/-. The Assessee being aggrieved is in appeal before us.

**3.** We by considering the peculiar facts and circumstances of the case observe that though the Assessee do not deserve any leniency, as inspite of sending notices and opportunities of hearings, made no compliance and therefore created constrained circumstances for passing the impugned order as ex-parte. However, as the issue in this case has not been adjudicated in its true spirit and right perspective, due to non-filling of proper submission/documents by the Assessee and it is the mandate of the Article 265 of the Constitution of India that no tax shall be levied or collected except by authority of law and therefore 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. We are also inclined to direct the Assessee to comply with the notices and co-operate with the appellate proceedings and file the relevant submissions/documents as would be essential/required before the Id. Commissioner and in case of further default, the Assessee shall not be entitled for any leniency.

Thus in the aforesaid terms, the case is remanded to the file of the Ld. Commissioner accordingly.

**4.** In the result appeal filed by the Assessee stands allowed for the statistical purposes.

Order pronounced in the open court on 14.03.2024 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**