

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

Before Shri Induri Rama Rao, Accountant Member
AND
Shri K. Narasimha Chary, Judicial Member

आ.अपी.सं / **ITA No.119/Hyd/2024**
(निर्धारण वर्ष/Assessment Year: 2016-17)

Shri Satyanarayana Vajrapu Miryalguda PAN:ABHPV8434F	Vs.	Income Tax Officer Ward-1 Nalgonda
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri Shri Satyanarayana Vajrapu – Assessee C.A	
राजस्व द्वारा/Revenue by::	Shri Shakeer Ahmed, DR	
सुनवाई की तारीख/Date of hearing:	25/03/2024	
घोषणा की तारीख/Pronouncement:	25/03/2024	

आदेश/ORDER

Per Inturi Rama Rao, A.M

This appeal filed by the assessee are directed against the ex-parte order dated 12/12/2023 of the learned CIT (A) NFAC Delhi, relating to A.Y. 2016-17.

3. Facts of the case, in brief, are that the assessee filed his return of income for the A.Y 2016-17 electronically on 6.6.2017 admitting total income of Rs.8,16,140/- and agricultural income of Rs.9,30,000/-. The return was selected

for scrutiny under CASS in “complete category”. Accordingly, a statutory notices u/s 143(2) & 142(1) were issued and served on the assessee to which the assessee has not complied with the notices. A show-cause notice u/s 271(1)(b) was issued for calling the explanation/objections of the assessee for levy of penalty. In response to the same, the assessee filed an online reply vide letter dated 24.09.2018 stating that he was pre-occupied with finalization and submission of tax audit returns and requested for adjournment. A fresh notice u/s 142(1) was again issued on 25.09.2018 to which assessee again not complied with the same. Thus, the Assessing Officer completed the assessment and made demand of Rs.2,54,81,930/- u/s 143(3) r.w.s. 271(1)(c).

4. In appeal, the learned CIT (A) NFAC upheld the action of the Assessing Officer.

5. Being aggrieved by the above additions, an appeal was filed before the NFAC, who vide impugned order dismissed the appeal of the assessee for non-prosecution without going into the merits of the issue in appeal.

6. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

7. We have heard the rival submissions and perused the material on record. From perusal of the impugned order, it is clear that the NFAC while passing the ex-parte order had not adjudicated the issue raised in appeal on merits, instead the

NFAC had dismissed the appeal for want of prosecution. This approach of the NFAC is totally unreasonable and unjustified. The NFAC fell in serious error by not admitting the appeal for non-prosecution. The settled positions of law mandates the NFAC to dispose of the appeal by adjudicating the issue raised in appeal on merits. In the present case, the NFAC had fell into serious error by dismissing the appeal for non-prosecution. Therefore, we vacate this finding of the NFAC.

8. In the circumstances, I remand the matter back to the file of the NFAC and direct to dispose of the appeal on merits in accordance with law after affording due opportunity of being heard to the assessee.

9. In the result, the appeal of the assessee stands partly allowed for statistical purposes.

Order pronounced in the Open Court itself at the time of hearing i.e. on 25th March, 2024.

Sd/- (K. NARASIMHA CHARY) JUDICIAL MEMBER	Sd/- (INRURI RAMA RAO) ACCOUNTANT MEMBER
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Hyderabad, dated 25th March, 2024

Vinodan/sps

Copy to:

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2	Income Tax Officer Ward -1 Hyderabad Road, Near Railway Under Bridge, Myralguda-508001 Nalgoda
3	Pr. CIT-, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order