

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. 155/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2017-18)

Bhargav Vaddavalli, Hyderabad [PAN No. AHTPV1588Q]	Vs. Income Tax Officer, Ward-8(3), Hyderabad
अपीलार्थी / Appellant	प्रत्यर्थी / Respondent

निर्धारिती द्वारा / Assessee by: Shri Kumar Pal Tated, AR
राजस्व द्वारा / Revenue by: Ms. Sheetal Sarin, DR

सुनवाई की तारीख/Date of hearing: 04/04/2024
घोषणा की तारीख/Pronouncement on: 04/04/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 11/01/2024 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Bhargav Vaddavalli ("the assessee") for the assessment year 2017-18, assessee preferred this appeal.

2. At the outset, learned AR submitted that the assessee could not prosecute the proceedings before the Revenue authorities diligently, because he being a non-resident, was travelling on the business work and

mostly out of India, he did not receive many of the notices and the notices he received were sent to the company to issue response, but due to communication gap, the replies were not promptly issued, resulting in disposal of the matter ex parte in the hands of both the Revenue authorities. Learned AR specifically submitted that the deposits were in the company accounts; whereas in his individual capacity, he is fastened with the liability to explain the same and this fact was taken cognizance by the learned CIT(A) in the order dated 03/06/2022, an appeal against the penalty under section 271F Income Tax Act, 1961 ('the Act') but, it missed the attention of the learned CIT(A) while disposing of the quantum appeal, resulting in confirmation of the addition in his impugned order dated 11/01/2024. Learned AR, therefore, prays that it would be in the fitness of things, an opportunity may be granted to the assessee for producing all the relevant material before the learned Assessing Officer.

3. Learned DR vehemently opposed the request made on behalf of the assessee on the ground that more than sufficient opportunity was granted by the Revenue authorities, but without availing the same, it is not open for the assessee now to seek one more opportunity. According to her, if such a request is granted, it would lead to never ending process.

4. We have gone through the record in the light of the submissions made on either side. It is an undisputed fact that the assessee is a non-resident and was travelling on the business work and mostly out of India. there is no reason not to believe the statement made on behalf of the assessee that due to communication gap, the replies were not promptly issued, resulting in disposal of the matter ex parte in the hands of both the Revenue authorities. It is not the case of the Revenue that by not prosecuting the proceedings before the Revenue authorities diligently, the assessee stood to gain.

5. Having regard to the facts and circumstances of the case, we are of the considered opinion that it would be in the interest of justice to afford

an opportunity to the assessee to produce all the evidence available to justify his claim. We are of the opinion that the highest that would happen by affording an opportunity to the assessee to prosecute his appeal before the learned Assessing Officer, by submitting the evidence, is that a cause could be decided on merits. When the technicalities are pitted against the delivery of substantial justice, the former must give way to the latter.

6. With this view of the matter, while setting aside the impugned order and restoring the appeal to the file of the learned Assessing Officer, we direct the assessee to co-operate with the learned Assessing Officer in getting the matters disposed of on merits, without seeking any adjournments and the learned Assessing Officer to take a fresh look at the matter, after affording a reasonable opportunity to the assessee of being heard. We order accordingly.

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

Order pronounced in the open court on this the 4th day of April, 2024.

Sd/-
(RAMA KANTA PANDA)
VICE PRESIDENT

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 04/04/2024

TNMM

Copy forwarded to:

1. Bhargav Vaddavalli, Plot No. 5, Phase-1, Mythrinagar, Madeenaguda, Hyderabad.
2. Income Tax Officer, Ward-8(3), Hyderabad.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ASSISTANT REGISTRAR
ITAT, HYDERABAD