

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"A " BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No.70/Bang/2024
Assessment Year : 2017-18

Berangodu Mohammed Kutty Shek Mohiddeen, Bapunagar Hsegal Village, Mudigere-577 132, Chikmagalur District.	Vs.	The Income Tax Officer, Ward - 1, Chikmagalur.
<b>PAN - ARBPM 4931 A</b>		
APPELLANT		RESPONDENT

Assessee by	:	Shri Sudheendra B.R, Advocate
Revenue by	:	Shri Sandeep Kumar H.S, Addl. CIT (DR)

Date of hearing	:	13.03.2024
Date of Pronouncement	:	04.04.2024

**ORDER**

**PER SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

This is an appeal filed by the assessee against the order passed by the NFAC, New Delhi on 18/10/2023 u/s 250 of the Income-tax Act, 1961 (Act) in DIN No. ITBA/NFAC/S/250/2023-24/1057176765(1) for the assessment year 2017-18.

2. The appeal before the Tribunal are delayed by 26 days . The assessee has filed application for condonation and affidavit stating that the assessee came to know that the appeal filed before the CIT(A) have been dismissed only when the AO passed a consequential order after dismissing the appeal of the appeal by the CIT(A), there after he immediately sought for legal advice and filed appeal. The assessee was not aware of the CIT(A) order. Therefore the appeal was filed with a delay. The ld. AR submitted that considering the reasonable cause the delay in filing appeals may be condoned.

3. After hearing both the parties, we note that there was reasonable cause in filing the appeals before the Tribunal and therefore following the Supreme Court judgment in the case of Collector, Land Acquisition v. Mst. Katiji (167 ITR 471 (SC), we condone the delay in fling both the appeals.

4. At the very outset, we noticed that the appeal of the assessee before the first appellate authority has been decided ex parte. The reason for deciding the appeal by the CIT(3A) ex parte was that several notices issued from the Office of the first appellate authority for filing written submission was not complied with by the assessee.

5. The brief facts of the case are that the assessee is an individual and he filed his return of income on 31.03.2018 for the assessment year 2017-18 declaring total income of Rs.2,87,650/-. The AO passed assessment order u/s 143(3) of the Act on 27/12/2019 assessing the income at Rs. 76,78,954/-.

6. The learned AR submitted that the appeal had migrated to National Faceless Assessment Centre (NFAC) and the hearing notices issued were never received by the assessee. He further submitted that the assessee responded the notices issued by the AO on 14/10/2019 and 27/11/2019 explaining the sources of cash deposits from which such amounts were deposited into the bank . He further submitted that the assessee is owing land measuring 225 acres wherein coffee, pepper are grown and sold . The main source of income is agriculture income and savings out of these agricultural activities were deposited in the bank account. The general practice of harvesting starts from June – July and in November – March. The harvested produce is sold to agents who visits the farm produced with good offer price. The harvested produce is dried and sold. The practice of the assessee is that keeping some cash in hand for payment of labourers and maintenance of plantation and during the period the

pepper price per kg. was in the range of 600-750 and it was sold as gate sales and the cash generated were also deposited into the bank account. During the impugned assessment year, the assessee also received gifts from relatives and took loan of Rs. 7 lakhs from Shri Veeresh and all these are included in the cash deposits. He further submitted that all these aspects have not been examined by both authorities below. He undertook that if a chance is given to the assessee he will comply the notices issued by the Revenue authorities

7. On the other hand, the Id.DR relied on the orders of authorities below and strongly objected in sending back the appeals since both the authorities have given ample opportunities to the assessee to comply his case but the assessee deliberately did not comply any of the notices issued by both the authorities. Therefore, both the authorities have rightly decided the case of the assessee on merit with the material available with them.

8. After considering the rival submissions, the appeal of the assessee migrated to NFAC. It is stated by the learned AR that the hearing notice issued by NFAC were not received by the assessee. Before us, the Id.AR of the assessee has also file paper book containing page number

45 to 100, which is placed on record and it was not produced before the lower authorities. We also note that from the bank statements called by the AO has not been properly examined at both the stages. Therefore, in the interest of justice and equity, we are of the view that one more opportunity ought to be provided to the assessee., Accordingly, we are remitting the issue back to the file of the AO for fresh consideration. The AO is directed to give reasonable opportunity of being heard to the assessee and decide the issue as per law. The assessee is directed to produce the necessary documents for substantiating her case and to avoid unnecessary adjournments for early disposal of the case and update the email, mobile No. and address for communication.

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

Order pronounced in court on 4<sup>th</sup> day of April , 2024

Sd/-

Sd/-

**(GEORGE GEORGE K)**

Vice President

Bangalore,

Dated : 04.04.2024.

Vms

**(LAXMI PRASAD SAHU)**

Accountant Member

Copyto:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore.