

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

Prabhakar Reddy Sama, Vs. Income Tax Officer,
Hyderabad Ward-9(1),
[PAN No. AWIPS5999J] Hyderabad

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा / Assessee by: Shri H. Srinivasulu, AR
राजस्व द्वारा / Revenue by: Ms. Sheetal Sarin, DR

सुनवाई की तारीख/Date of hearing: 10/04/2024
घोषणा की तारीख/Pronouncement on: 10/04/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 29/12/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Prabhakar Reddy Sama ("the assessee") for the assessment year 2017-18, assessee preferred this appeal.

2. Brief facts of the case are that assessee is an individual having income from house property and is a partner in a firm known as M/s. Swagath Restaurant & Bar, earning a share of profit from the said

partnership firm which is assessed to tax regularly. The assessee has a bar license in his individual name and gave the same to the firm and joined as a partner. Assessee did not file the return of income for the assessment year 2017-18 and on noticing that huge funds were credited to the account of the assessee, learned Assessing Officer issued notice under section 142(1) Income Tax Act, 1961 ('the Act'), but the assessee did not respond to the same and, therefore, learned Assessing Officer passed ex parte order under section 144 of the Act, determining the total income at Rs. 1,14,03,050/-.

3. Assessee preferred appeal before the learned CIT(A) and claims to have filed the bank accounts and other information, but the learned CIT(A) did not refer to the same in his order. On the other hand, learned CIT(A) noticed that the assessee failed to produce any information. Learned CIT(A) accordingly confirmed the addition made by the learned Assessing Officer.

4. Hence, this appeal by the assessee. Learned AR submitted that though the assessee submitted the bank account statements, and written submissions, the learned CIT(A) failed to consider the same and on the other hand, and the learned CIT(A) decided the case on wrong facts, inasmuch as while reproducing the assessment order, the learned CIT(A) at paragraph No. 6.2, after reproducing paragraph No. 2 of assessment order, reproduced the assessment order of some other assessee, and facts not at all related to the assessee. Learned AR therefore submitted that there is non-application of mind on the part of the learned CIT(A) and, therefore, this appeal deserves to be allowed by quashing the impugned order of the learned CIT(A).

5. Learned DR submitted that as per the impugned order, assessee did not furnish any information and, therefore, the learned CIT(A) had no option, but to proceed ex parte.

6. We have gone through the record in the light of the submissions made on either side. It could be seen from the impugned order that the learned CIT(A) not only did not refer to the facts pleaded by the assessee, but also on the other hand, reproduced the un-related assessment order, in the impugned order, which indicates want of proper attention to the facts of the case.

7. We are satisfied that the learned CIT(A) did not properly advert to the facts of the case, or the correct assessment order and, therefore, we set aside the impugned order and restore the appeal to the file of the learned CIT(A) for fresh adjudication, after affording an opportunity of being heard to the assessee. We hold and order so.

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

Order pronounced in the open court on this the 10th day of April, 2024.

Sd/-
(RAMA KANTA PANDA)
VICE PRESIDENT

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 10/04/2024

TNMM

Copy forwarded to:

1. Prabhakar Reddy Sama, 5-4-179, Kamalanagar, Vanasthalipuram,
L.B. Nagar, Hyderabad.
2. ITO, Ward-9(1), Hyderabad.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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