

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “SMC”, HYDERABAD
(Through virtual hearing)**

BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.236/Hyd/2024		
Assessment Year: 2021-22		
14 Reels Venkataboyanapalli JV, Plot No.8-2-293/82/76, Women Co-op Housing Society, Road No.7A, Jubilee Hills, Hyderabad, Telangana – 500033. PAN : AAAAZ2224L.	Vs.	The Deputy Commissioner of Income Tax, Central Circle – 1(3), Hyderabad.
(Appellant)		(Respondent)
Assessee by:		Shri A.V. Raghuram, Advocate.
Revenue by:		Shri Mookambikeyan, Sr.AR
Date of hearing:		01.04.2024
Date of pronouncement:		01.04.2024

ORDER

PER LALIET KUMAR, J.M.

The appeal of the assessee for A.Y. 2021-22 arises from the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dt.12.01.2024 invoking proceedings under section 144 of the Income Tax Act, 1961 (in short, “the Act”).

2. The grounds raised by the assessee read as under :

“ 1. On the facts and in the circumstances of the case, the order of the Id. CIT(A) is erroneous and unsustainable in law apart from being passed in violation of principles of natural justice. The Id. CIT(A) failed to appreciate that proper notices were not served on the appellant as required under section 282 of the Act r.w. rule 127 of the Rules, and therefore Appellant could not put forth his case.

2. The Ld. CIT(A) erred in sustaining the addition made by the AO of Rs.10,00,000/- undisclosed income u/s.69 of the I.T. Act, 1961.”

3. The brief facts of the case are that a search and seizure operation u/s 132 of the I.T. Act, 1961 was conducted in M/s. Usha Bala Group of cases on 28.01.2021 covering Sri V V Bala Krishna Rao (HUF), Prop: M/s. Usha Pictures & Financers. During the search proceedings in the case of M/S. Usha Pictures & Financers, certain incriminating material i.e., loose sheets containing financial transactions etc., were found and seized and subsequently, the case of the assessee was centralized with this circle and accordingly, the relevant information was forwarded. On the basis of the information, a notice u/s 142(1) was issued on 30.06.2022, calling for filing the return of income and was duly served on the assessee through e-proceeding. In response to the notice issued, the assessee did not file its return of income for the A.Y. 2021-22 and also no response for subsequent notice issued u/s. 142(1) dated 09.12.2022.

3.1. Thereafter, information relating to the bank account of the assessee was obtained by way of issuance of notice u/s.133(6) of the I. T. Act, 1961 and came to know that the credits totaling to Rs.10,00,000/- were received from M/S. Mango Mass Media Pvt. Ltd.

on 16.10.2020 & 03.03.2021 by the assessee. In view of the above, a letter calling for information u/s. 133(6) of the I. T. Act, 1961 from the company M/S. Mango Mass Media Pvt. Ltd. to provide a copy of the ledger of the assessee company for the period along with the nature of transactions. In response, M/S. Mango Mass Media Pvt. Ltd. has furnished ledger extract of the transaction(s) by describing the same as the purchases towards Kannada dubbing rights for the movies 'Hyper' & 'Lie'. As the assessee-company did not file its return of income, a final show cause notice dated 09.12.2022, was issued u/s. 142(1) requesting to show-cause as to why the total credits of Rs.10,00,000/- should not be treated as the undisclosed income and brought to tax. As there was no response from the assessee, Assessing Officer left with no other option but constrained to make the addition of Rs.10,00,000/as unexplained receipts of the company during the year under consideration and completed the assessment u/s 144 of the Act.

4. Feeling aggrieved with the order of Assessing Officer assessee filed an appeal before the Id.CIT(A), NFAC, Delhi, who dismissed the appeal of assessee.

5. Before me, Id.AR submitted that the learned lower authorities have decided the issue without considering the explanation offered by the assessee and that assessee failed to appear due to unavoidable circumstances. Ld.AR further submitted that as the assessee has sufficient cause from putting in appearance before the Id.CIT(A), matter may kindly be remitted back to the authorities below for afresh adjudication.

6. Per contra, the ld.DR has raised objection for remanding the matter back to the file of lower authorities.

7. I have heard the rival contentions of both the parties and perused the material available on record and also the orders passed by the lower authorities. On perusal of the impugned order passed by ld.CIT(A), I found that ld.CIT(A) passed exparte order confirming the action of the Assessing Officer. The merits of the assessee's appeal before the ld.CIT(A) have neither been discussed nor decided by the ld.CIT(A). From paras 6.2 and 6.3 of the order of ld.CIT(A), it is clear that ld.CIT(A) was forced to decide the appeal on the basis of material available on record, as there was no representation on behalf of the assessee even after granting several opportunities. In view of the above reasons, in our view, the ends of justice will be met if the matter is remanded back to the file of Assessing Officer with a direction to decide the issue after considering the documents available on record and affording the opportunities of hearing to the assessee in accordance with law.

8. The assessee shall be at liberty to file documents, if any, as required for proving its case and the Assessing Officer shall consider the evidences, if any, filed by the assessee. Needless to say the Assessing Officer shall examine those documents / evidence filed by the assessee and also the other documents available on record. After considering the documents filed by the assessee and the submissions made by the assessee, the Assessing Officer shall pass a detailed speaking order dealing with the contentions of the assessee. I have not adjudicated the other grounds on merits as I

am setting aside the orders passed by the lower authorities to the file of Assessing Officer for fresh adjudication. Thus, the grounds of the assessee are allowed for statistical purposes.

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

Order pronounced in the Open Court on 1st April, 2024.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad, dated 1st April, 2024.

TYNM/sps

Copy to:

S.No	Addresses
1	14 Reels Venkataboyanapalli JV, Plot No.8-2-293/82/76, Women Co-op Housing Society, Road No.7A, Jubilee Hills, Hyderabad, Telangana – 500033.
2	The Deputy Commissioner of Income Tax, Central Circle – 1(3), Hyderabad.
3	Prl.CIT (Central), Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order