

**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC-'B' BENCH : BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No. 437/Bang/2024
Assessment Year : 2017-18

Shri Hemaraj Adivappa Badni, 44, Basav Sadan, Banashankari Layout, Bengeri Exten, Hubballi – 580 023. PAN: AGRP1575C	Vs.	The Income-tax Officer, Ward – 1[1], Hubli.
APPELLANT		RESPONDENT

Assessee by	:	Shri Narendra Sharma, Advocate
Revenue by	:	Shri Ganesh R Ghale, Advocate – Standing Counsel for Department

Date of Hearing	:	08-04-2024
Date of Pronouncement	:	17-04-2024

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal has been filed by assessee against order passed by NFAC, Delhi dated 23.01.2024 for A.Y. 2017-18.

2. At the outset, the Ld.AR submitted that the NFAC/CIT(A) dismissed the appeal for non-prosecution. He submitted that though the issues has been decided on merits, the submissions of the assessee were not considered and the Ld.CIT(A) has upheld the view of the Ld.AO.

3. The Ld.AR submitted that assessee was issued 3 notices on 23.02.2021, 25.11.2021 and 05.01.2024. In each of these notices, assessee had sought for adjournment. It is submitted that, the first two dates fell during the covid period and thereafter, after a period of 3 years, the third notice was issued intimating the date of hearing to be on 12.01.2024. The Ld.AR submitted that assessee was in the process of collecting all the necessary details in respect of the issues and therefore was unable to make proper representation before the first appellate authority. The Ld.AR submitted that though an adjournment application was filed on 10.01.2024, the Ld.NFAC/CIT(A) did not grant a date and passed the impugned order on 23.01.2024. The Ld.AR humbly prayed that the issue may be remanded to the Ld.CIT(A) for readjudication on the merits in the interest of justice.

4. The Ld.DR on the contrary vehemently opposed the request of the assessee for the reason that assessee had not appeared before the NFAC and had simply filed adjournment applications. It was thus submitted by the Ld.DR that assessee was not interested in pursuing the appeals.

We have perused the submissions advanced by both sides in the light of records placed before us.

5. We note that the assessment order was passed in the year 2019. The assessing officer had issued various notices calling for various details in respect of the cash deposits made during demonetisation period and also sought explanation in respect of substantial increase in the agricultural income that was claimed exempt during the year. The assessee sought time before the assessing officer which was granted. However, proper details could not be furnished by the assessee on the issues and the assessment order was passed.

6. Before the Ld.NFAC/CIT(A), the hearing was carried out during the pandemic period and thereafter in 2024, when the 3rd notice was issued, there was a lapse of three years. Merely because the assessee sought adjournment, it cannot be assumed that, the assessee was not interested in contesting the appeal. We are of the opinion that justice must not seem to be rendered but it must be rendered.

Assessee cannot be denied the opportunity of being heard which is the basic principles of natural justice.

7. As the appeal was pending before the first appellate authority, considering the fact that at the fag end of the 2019 fear of epidemic was already in the air, assessee deserves to be granted

opportunity of being heard and to furnish relevant details / information in respect of the additions made.

8. In the interest of justice, we therefore remand the appeal for *denovo* consideration to the Ld.AO on the issues that has been the reason for the scrutiny assessment. The assessee is directed to furnish all relevant information / evidences in respect of the issues before the assessing officer and the assessing officer is directed to verify the same in accordance with law.

Accordingly, the grounds raised by the assessee stands partly allowed for statistical purposes.

In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 17th April, 2024.

Sd/-
(CHANDRA POOJARI)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 17th April, 2024.
/MS /

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|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore