

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

BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.258/Hyd/2024		
Assessment Year: 2013-14		
Raikanti Krishna Reddy, 18-392/B, Shadnagar, Bhagiratha Colony, Mahabubnagar, Telangana – 509216. PAN : ALKPR2991J.	Vs.	The Income Tax Officer, Ward – 1, Mahabubnagar.
(Appellant)		(Respondent)
Assessee by:		Ms. S. Sandhya, Advocate.
Revenue by:		Shri Ranjan Agarwala, Sr.AR
Date of hearing:		08.04.2024
Date of pronouncement:		08.04.2024

ORDER

PER LALIET KUMAR, J.M.

The appeal of the assessee for A.Y. 2013-14 arises from the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dt.20.02.2024 invoking proceedings under section 147 r.w.s 144 of the Income Tax Act, 1961 (in short, “the Act”).

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

“ 1. The order of the learned Commissioner of Income-Tax (Appeals) is erroneous both on facts and in law.

2. *The learned Commissioner of Income-Tax (Appeals) erred in confirming the action of the Assessing officer in initiating proceedings u/s 147 of the I.T. Act when no income escaped assessment.*

3. *The learned Commissioner of Income-Tax (Appeals) erred in deciding the appeal ex parte without providing proper opportunity to the appellant.*

4. *The learned Commissioner of Income-Tax (Appeals) ought to have served the notice physically on the assessee before deciding the appeal.*

5. *The learned Commissioner of Income-Tax (Appeals) erred in confirming the action of the Assessing officer in treating the amount of Rs.21,41,300/- as the income of the assessee assessable u/s 69A of the I.T. Act.*

6. *The learned Commissioner of Income-Tax (Appeals) ought to have seen that there was no such deposit in the bank account mentioned by the Assessing officer and the bank account of the assessee shows only the repayment of housing loan taken, the aggregate of which was not more than Rs.3 lakhs and the assessee possessed the necessary sources for repayment.*

7. *The Assessing officer and the learned CIT (Appeals) ought to have considered that the appellant did not deposit the amount of Rs.24,41,300/- in any account and that therefore, the learned CIT (Appeals) is not justified in confirming the action of the Assessing officer in treating the said amount as income of the appellant.”*

3. The brief facts of the case are that assessee is engaged in the business of “Real Estate” and return of income was not filed for the above mentioned year which is under consideration. As per information made available through actionable information monitoring system (AIMS). The assessee made case deposits aggregating to Rs. 24,41,300/- to the assessment year 2013-14. Thus the income chargeable to tax has escaped assessment to the tune of Rs. 24,41,300/-. Accordingly, notice u/s 148 of the IT Act 1961 vide dated 05.03.2021 was issued to furnish return of income

for the A.Y. 2013-14. In response to the notice u/s 148, the assessee neither filed their return nor asking reason for re-opening. Thereafter notice u/s 142 (1) along with questionnaire issued on 08.04.2021, 31.05.2021, 09.06.2021 and 10.08.2021, but assessee did not comply. Hence, entire cash deposits for sum of Rs, 24,41,300/- treated as unexplained money u/s 69 A of the income tax Act, 1961. In this regard, the provisions of Show Cause Notice was issued on 17/08/2021 for compliance on 23/08/2021, but no compliance was made. Hence, the unexplained money u/s 69A amounting to Rs. 24,41,300/- was added back to the total Income of the Assessee and the income of the assessee was assessed u/s 147/144 read with section 144B of the Income Tax Act, 1961. Thereafter, the Assessing Officer initiated penalty proceedings u/s 271(1)(c) of the Income Tax Act, 1961. Thus, Assessing Officer completed the assessment u/s 147 r.w.s. 144 of the Act and passed assessment order on 02.09.2021.

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 assessee has failed to provide necessary information and appear before the lower authorities. Hence, the Id. AR requested the Bench to remand the matter back to the file of Assessing Officer. Ld.AR further submitted that as the assessee has sufficient cause from putting in appearance before the lower authorities, matter may kindly be remitted back to the authorities below for afresh adjudication.

7. Per contra, the ld.DR has not raised any objection for remanding the matter back to the file of lower authorities.

8 I have heard the rival contentions of the parties and perused the material available on record and also the order passed by the lower authorities. On perusal of the impugned order passed by ld.CIT(A), I found that ld.CIT(A) passed an order confirming the action of the Assessing Officer in his assessment framed on 02.09.2021. The merits of the assessee's appeal before the ld.CIT(A) have neither been discussed nor decided by the ld.CIT(A). From page 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. 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 subject to payment of costs of Rs.3,000/- (Rupees Three Thousand only) in favour of Prime Minister National Relief Fund which shall be payable within one month or from the date of receipt of this order or whichever is earlier.

9. The assessee shall be at liberty to file documents, if any, as required for proving his 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.

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

Order pronounced in the Open Court on 8th April, 2024.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad, dated 8th April, 2024.

TYNM/sps

Copy to:

S.No	Addresses
1	Raikanti Krishna Reddy, 18-392/B, Shadnagar, Bhagiratha Colony, Mahabubnagar, Telangana – 509216.
2	The Income Tax Officer, Ward – 1, Mahabubnagar.
3	Pr1.CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order