

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' Bench, Hyderabad

Before SHRI LALIET KUMAR, JUDICIAL MEMBER
AND
SHRI MANJUNATHA, G. ACCOUNTANT MEMBER

आ.अपी.सं / **ITA No. 176/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2017-18)

Nature Nivas Developers Hyderabad PAN:AALFN3216E (Appellant)	Vs.	Income Tax Officer Ward 9(3) Hyderabad (Respondent)
निर्धारिती द्वारा/Assessee by: Shri Manoj, CA for Sreelata Vootkoo, CA		
राजस्व द्वारा/Revenue by:: Smt. Sheetal Sarin, DR		
सुनवाई की तारीख/Date of hearing: 16/04/2024		
घोषणा की तारीख/Pronouncement: 16/04/2024		

आदेश/ORDER

Per MANJUNATHA, G. A.M

This appeal filed by the assessee is directed against the order dated 03/08/2023 of the learned CIT (A) NFAC Delhi relating to A.Y.2017-18.

2. Facts of the case, in brief, are that the appellant M/s. Nature Nivas Developers is a partnership firm engaged in the business of plotting and selling of residential plots and marketing of developed plots. The appellant has filed its return of income for

the A.Y 2017-18 on 24.10.2017 declaring total income of Rs.16,07,470/-. The case was selected for scrutiny under CASS to verify the cash deposits into bank account during the demonetization period. During the course of assesment proceedings, the Assessing Officer noticed that the assessee has made cash deposit of Rs.1,31,00,000/- in the specified bank notes during the demonetization period. Therefore, called upon the assessee to file the necessary evidences including the source for cash deposits. Since, the appellant could not furnish the requisite details, the Assessing Officer made addition towards cash deposits u/s 69A r.w.s. 115BBE of the I.T. Act. The Assessing Officer had also made addition towards disallowance of development expenditure of Rs.1,86,28,140/- and disallowance of commission paid at Rs.55,59,054/- for want of evidences. The assessee carried the matter in appeal before the first appellate authority but could not succeed. The learned CIT (A) dismissed the appeal filed by the assessee for non-prosecution when the appellant was not appeared and filed the necessary details to justify its case. Aggrieved with the order of the CIT (A), the assessee is in appeal before the Tribunal.

3. The learned Counsel for the assessee submitted that the learned CIT (A) disposed of the appeal filed by the assessee ex-parte without providing sufficient opportunities of hearing contrary to the principles of natural justice and thus, the matter may be set aside to the file of the learned CIT (A) to give reasonable opportunity of hearing to the assessee to explain its case.

4. The learned DR Smt. Sheetal Sarin, on the other hand, supported the order of the learned CIT (A) and submitted that when the appellant is not prosecuting their appeal before authorities below, then the authorities left with no option but to dispose of the appeal filed by the assessee on the basis of material available on record. Thus, there is no reason to set aside the appeal to the file of the learned CIT (A).

5. We have heard both the parties and perused the materials available on record. The learned CIT (A) disposed of the appeal filed by the assessee when the appellant was not appearing and filing the necessary details even though number of opportunities were given to the assessee to justify its case. But, such appeal has been disposed of on technical rules without considering the issues involved on merit. It is a well-established principle of law by the decision of the various Courts that even in a case of non-appearance of the appellant, the appeals should be disposed of on merit on the basis of material available on record. Since, the learned CIT (A) has dismissed the appeal filed by the assessee on technical ground for non-prosecution, in our considered opinion, the matter needs to be set aside to the file of the learned CIT (A) to give another opportunity of hearing to the assessee. Thus, we set aside the order of the learned CIT (A) and restore the issues to the file of the learned CIT (A) for fresh adjudication. The learned CIT (A) is directed to reconsider the issues after providing reasonable opportunities of being heard to the assessee. Needless to say, the assessee shall appear before the

first appellate authority without seeking any adjournment under any pretext.

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

Order pronounced in the Open Court on 16th April, 2024.

Sd/- (LALIET KUMAR) JUDICIAL MEMBER	Sd/- (MANJUNATHA, G.) ACCOUNTANT MEMBER
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Hyderabad, dated 16th April, 2024

Vinodan/SPS

Copy to:

S.No	Addresses
1	Nature Nivas Developers, H.No.3-13-285, 2 nd Floor, Rajiv Gandhi Nagar, LB Nagar, Hyderrabad
2	Income Tax Officer Ward 9(3) IT Towers, AC Guards, Masab Tank, Hyderabad 500004
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order