

आयकर अपीलिय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A", HYDERABAD**

BEFORE
SHRI LALIET KUMAR, JUDICIAL MEMBER
(Through virtual mode)
AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

Sl. No	ITA No	Assessment Year	Appellant / Assessee	Respondent
1	133/Hyd/2024	2013-14	Andhra Pradesh Medical Services and Infrastructure Development Corporation, Hyderabad. DIHS Campus, Sultan Baazar, Koti – 500085, Telangana. PAN : AAMFA6871F	The DCIT, Circle – 5(1), Hyderabad.
2	134/Hyd/2024	2014-15		
3	136/Hyd/2024	2015-16		
4	137/Hyd/2024	2017-18		
5	320/Hyd/2024	2016-17		

Appellant by : Shri R. Mohan Kumar,
Advocate.

Respondent by : Shri Ch. V. Gopinath, CIT DR
(Appeared through virtual
mode)

Date of Hearing : 25.04.2024

Date of Pronouncement : 29.04.2024

ORDER

PER BENCH :

These are the set of five appeals filed by the appellant/
assessee feeling aggrieved by the separate orders passed by
Commissioner of Income Tax (Appeals), National Faceless Appeal
Centre (NFAC), Delhi dt.20.12.2023 for different assessment years.

2. One of the appeals i.e., ITA No.320/Hyd/2024 for A.Y. 2016-17 filed by the assessee is barred by limitation by 43 days. It has moved a condonation petition explaining reasons thereof. We have heard both the parties on this preliminary issue. Having regard to the reasons given in the petition, we condone the delay and admit the appeal for hearing.

2.1 Since the identical issues were raised in all these appeals, we are taking ITA No.133/Hyd/2024 for A.Y. 2013-14 as lead appeal.

2.2. The grounds raised by the assessee in ITA No.133/Hyd/2024 for A.Y. 2013-14 read as under :

“1. *In the facts and circumstances of the case the CIT(A) ought to have held that the assessment order is not sustainable on facts or in law.*

2. *In the facts and circumstances of the case the CIT(A) ought to have held that the statutory notice issued u/s 148 of the Act on 25.03.2021 by the DCIT Circle 5(1), Hyderabad was without jurisdiction.*

3. *In the facts and circumstances of the case the CIT(A) ought to have considered that the statutory notice issued u/s 148 of the Act on 25.03.2021 was not served on the assessee rendering the consequent assessment proceedings without jurisdiction and bad in law.*

4. *In the facts and circumstances of the case the Assessing Officer ought to have appreciated that the PAN: AAMFA6871F does not belong to the appellant and that the appellant after bifurcation obtained new PAN.*

5. *In the facts and circumstances of the case the Assessing Officer ought to have considered that the FDs held in Banks belonged to erstwhile State of Andhra Pradesh, and that the accounts were put under freeze by the Telangana Government after bifurcation of the State.*

6. *In the facts and circumstances of the case the CIT(A) ought to have appreciated the fact that the entire funds which have been converted into term deposits are funds released by the state government for various projects and are parked in term deposits pending utilization. As such the same cannot be considered as the income of the appellant.*

7. *In the facts and circumstances of the case the CIT(A) ought to have considered that the provisions of section 69A are not applicable for both the additions made by the AO.*

3. The brief facts of the case are that assessee company, despite engaging in significant financial transactions for the assessment year 2013-14, notably a time deposit of Rs. 126,56,78,666/- and receiving interest income of Rs. 94,33,742/-, failed to file its income tax return. Despite several notices and opportunities provided, including a notice under section 148 of the Income Tax Act issued on 25.03.2021, no response was received from the assessee. Subsequently, the case was marked to Verification Unit (VU) on 11.02.2022, and a final show cause notice under section 144 of the Income Tax Act was issued on 02.03.2022, fixing the proceedings for 09.03.2022. Despite being given ample opportunities, the assessee did not file a reply to the show cause notice. Consequently, the assessment was completed ex-parte under section 144 of the Income Tax Act, considering the non-responsiveness of the assessee throughout the proceedings. The unexplained deposits and undisclosed interest income were added to the assessee's total income under sections 69 and 69A of the Income Tax Act, respectively. Furthermore, due to the intentional non-compliance and apparent attempts to evade tax obligations, penalty proceedings under section 271(1)(c) for concealing income were

initiated. Accordingly, the Assessing Officer passed assessment order under sections 147 and 144 of the Income Tax Act on 10.03.2022.

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

5. The Id. AR for the assessee has drawn our attention to para 7 of the order of Id.CIT(A) which is to the following effect :

“7. Decision :

The copy of the AO’s Remand Report was forwarded to the appellant for giving counter comments. However, the appellant has been seeking adjournment after adjournment. Comments of the appellant were called for on the following dates:

1. 03.11.2023
2. 09.11.2023
3. 30.11.2023
4. 14.12.2023

Every time the appellant has requested adjournment, it has been granted adjournment. Since there is no response from the appellant, the 16 points report of the AO is to be accepted. In these 16 points AO address each of the 16 grounds of appeal and in the absence of any rejoinder from the appellant, the grounds of appeal are hereby liable to be dismissed.

6. The Id. AR has submitted that assessee wrote a letter in the month of October, 2023 to learned Assessing Officer asking for the details of term deposits for which the assessee was required to furnish the information. The Assessing Officer has shown his inability to furnish the details of the term deposit which as per his estimation are required to be charged. As the Assessing Officer had

no specific question to be answered by the assessee, the assessee chose to remain silent and has not responded to the remand report of the Assessing Officer. It was further submitted that assessee faced challenges due to the dispute between Andhra Pradesh and Telangana regarding funds and interest. It was submitted that now the details of the term deposits were available with the assessee and that as the assessee was given an opportunity, then it could explain the credit and it was submitted that the assessee may be given a chance to prove its case before the lower authorities.

7. Per contra, ld. DR had objected to the callous and casual attitude of the assessee. It was submitted that all the record was available with the authority but it is not expected from a Government authority / society for not keeping its record and submitting the record.

8. We have heard the rival submissions and perused the material on record. Undoubtedly, the assessee society was formed by the Government of united Andhra Pradesh. However, following the bifurcation in June 2014, numerous disputes arose between the two states including the division of officials between the two states and there was lack of responsibility in the respective state oppositions to take care of the interests of the assessee society. However, in our view, it is difficult to accept the contention of the learned Authorized Representative that the receipt of details of term deposits and funds, etc., was hindered due to transfers of government officials because if one of the officials is transferred, his or her work would be assigned to some other officer. However,

since the assessee has now shown its willingness to provide all the relevant records before the lower authorities, therefore, we deem it appropriate to remand the issue of the assessee, being Government a Body back to the file of Assessing Officer

9. As agreed by both the sides, the assessee society has huge volume of drugs in their stock which are likely to be expired within a period of six months. It is suggested by both the parties that suitable direction may be issued to the assessee society to distribute the drugs in tribal or rural area so that the drugs reaches to the beneficiary without any hindrance. In light of the above, we are of the opinion that the assessee should distribute these drugs, totaling to Rs.1,00,000/- within a period of six months from the date of passing of this order within rural and tribal areas and further submit a report to the Tribunal mentioning the name of beneficiary, quantity, brand name of the drugs etc. The details, if any, should be filed subject to the above direction. With this direction, the matter is remanded back to the file of Assessing Officer for denovo consideration of all the issues and the assessee is also directed to produce all the relevant documents as sought by the Assessing Officer for proper adjudication of the cases. However, if assessee fails to produce the documents, the Assessing Officer shall be free to take appropriate steps in accordance with law. A copy of this order shall be served upon Shri D. Muralidhar Reddy, Vice Chairman and Managing Director of M/s. Andhra Pradesh Medical Services and Infrastructure Development Corporation, Mangalagiri, Andhra Pradesh.

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

11. Now coming to the remaining appeals of the assessee, i.e., ITA 134/Hyd/2024, ITA 136/Hyd/2024, ITA 137/Hyd/2024 and ITA 320/Hyd/2024 which are identical to the facts and issues raised in lead appeal ITA 133/Hyd/2024, we hold that our decision would apply mutatis mutandis.

12. In the result, appeals of assessee in ITA 134/Hyd/2024, ITA 136/Hyd/2024, ITA 137/Hyd/2024 and ITA 320/Hyd/2024 are allowed for statistical purposes.

13. In the combined result, all the appeals of assessee are allowed for statistical purposes.

Order pronounced in the Open Court on 29th April, 2024.

Sd/- (MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER	Sd/- (LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 29th April, 2024.
TYNM/sps

Copy to:

S.No	Addresses
1	Andhra Pradesh Medical Services and Infrastructure Development Corporation, Hyderabad. DIHS Campus, Sultan Baazar, Koti - 500085, Telangana.
2	The DCIT, Circle - 5(1), Hyderabad.
3	Pr.CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order