

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B”BENCH: BANGALORE**

**BEFORE SHRI NARENDRA KUMAR CHOUDHRY,
JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No.285/Bang/2024
Assessment Year:2017-18

Sohanlalji Ashok Seervi No.64, Arunachalam Mudhaliyar Road Shivajinagar Bangalore 560 051 PAN NO.FGZPS2712H	Vs.	ITO Ward-1(2)(2) Bengaluru
ASSESSEE		RESPONDENT

Assessee by	:	Ms. Suman Lunkar, A.R.
Revenue by	:	Shri Subramanian S., D.R.

Date of Hearing	:	18.03.2024
Date of Pronouncement	:	18.03.2024

O R D E R

PERLAXMI PRASAD SAHU, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against ex-parte order passed by NFAC u/s 250 of the Income Tax Act, 1961 (in short “The Act”) vide order dated 30.10.2023 with DIN & Order No.ITBA/NFAC/S/250/2023-24/1057492214(1) for the assessment year 2017-18. The sole issue raised by the assessee is on addition made u/s 69A of the Act at Rs.72,92,966/- and taxed u/s 115BBE of the Act.

2. Brief facts of the case are that the assessee has not filed return of income u/s 139 of the Act. Accordingly, notice u/s 142(1) of the Act was issued to the assessee but the assessee did not comply to the same. Hence, the ld. AO issued notice u/s 133(6) of the Act to the bank and obtained bank statement. Accordingly, it was observed that the assessee has maintained bank accounts in Union Bank of India A/c No.45770201057554 and in United Commercial Bank alone assessee is having 6 bank accounts (1) 06240610011485 (2) 06240610015728 (3) 06240610011140 (4) 06240610017456 (5) 06240610012284 (6) 06240610012574 wherein the total cash deposits in both banks during the year under consideration on various dates are found at Rs.72,82,172/-. The assessee did not file return of income u/s 139(1) of the Act and hence the case was completed u/s 144 of the Act. The entire cash deposited was treated as income of the assessee, tax payable was calculated u/s 115BBE of the Act and passed order on 8.10.2019.

2.1 Aggrieved from the above order, the assessee filed appeal before this Income Tax Appellate Tribunal. The ld. NFAC/CIT(A) issued various notices to the assessee on different dates as per para 4 of his order. However, the assessee did not comply to any of the notices. Accordingly, the appeal was dismissed.

2.2 Aggrieved from the above order, the assessee filed an appeal before us with a delay of 52 days. During the course of hearing, the ld. A.R. of the assessee stating the reasons for delay in filing appeal vide its affidavit dated 15.03.2024 along with a petition to condone the delay explaining the reason that the assessee had visited the office of

the Counsel in first week of February with one of his relative for some consultation in Income Tax matters casually enquired about the status of the appeal filed and then the concerned Chartered Accountant logged into the portal and found that the appellate order has already been passed in the case of the assessee in October, 2023 itself. Then the matter was discussed and arrangements were made to file the appeal before the ITAT with a delay of 52 days. The said Chartered Accountant further observed that the assessee was not in receipt of any of the notices issued by the Id. NFAC/CIT(A) for which the appeal could not be pursued, therefore, he requested that if a chance is given to the assessee, the assessee will comply with the notices for completion of the assessment.

3. The Id. D.R. relied on the order of the lower authorities and submitted that both the authorities below have issued various notices to the assessee but the assessee did not respond to any of the notices and assessee has also not filed return u/s 139 of the Act in response to notice u/s 142(1) of the Act and he strongly objected to condone the delay and to adjudicate the appeal.

4. We have heard the rival submissions and perused the materials available on record. From the explanation given by the assessee in his petition it is clear that there was a good and sufficient reason in filing the appeal belatedly before this Tribunal. Relying on the decision of Hon'ble Supreme Court in the case of Collector, Land Acquisition v. Mst. Katiji and Ors. (167 ITR 471), we condone the delay of 52 days in filing the appeal before this Tribunal.

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4.1 Considering the rival submissions, we noted that assessment was completed u/s 144 of the Act and before the Id. CIT(A), the case was also decided ex-parte by the NFAC/CIT(A). The NFAC has issued various notices which were not responded. However, considering the prayer of the Id. A.R. for the assessee and in the interest of justice, we are remitting the issue back to the file of the Id AO for de-novo consideration. The Id. AO is directed to give reasonable opportunity of being heard to the assessee and decide the issue as per law. The assessee is directed to produce the necessary documents for substantiating his case and to avoid unnecessary adjournments for early disposal of the case and update the email, mobile number and address for communication.

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

6. The order is pronounced in the open court through virtual hearing on 18.03.2024.

Sd/-
(Narendra Kumar Choudhry)
Judicial Member

Sd/-
(Laxmi Prasad Sahu)
Accountant Member

Bangalore,
Dated 18th Mar, 2024.
VG/SPS

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Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
- 5 Guard file

By order

**Asst. Registrar,
ITAT, Bangalore.**