

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

Before Shri K. Narasimha Chary, Judicial Member
And
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं / **ITA No.235/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2015-16)

Sree Ramakrishna Vendrapu Hyderabad PAN:AOLPV2633M (Appellant)	Vs.	Income Tax Officer Ward 15(1) Hyderabad (Respondent)
निर्धारित द्वारा / Assessee by:	Shri Pawan Kumar Gorti, CA	
राजस्व द्वारा / Revenue by:	Shri Shakeer Ahmed, DR	
सुनवाई की तारीख / Date of hearing:	07/05/2024	
घोषणा की तारीख / Pronouncement:	09/05/2024	

आदेश/ORDER

Per Madhusudan Sawdia, A.M

This appeal is filed by Sree Ramakrishna Vendrapu, ("the assessee"), feeling aggrieved by the order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ("Id. CIT(A)"), dated 12.01.2024 for the AY 2015-16.

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

1. That on the facts and circumstances of the case the order passed by the Learned Assessing Officer under section 147 of the Income tax Act 1961 is bad and erroneous in law

That on the facts and circumstances of the case the Learned Assessing Officer erred in treating salary income and interest income as undisclosed income.

That on the facts and circumstances of the case the Learned Assessing Officer erred in invoking section 115BBE of Income tax Act 1961 for the AY under consideration as the provisions of which were enacted much later.

2. That on the facts and circumstances of the case the Learned Assessing Officer failed to consider the taxes withheld by the employer while arriving at the tax liability ignoring the jurisprudence available.
3. That on the facts and circumstances of the case the Learned Assessing Officer erred in considering the sale of vehicle amount as undisclosed income, especially when the vehicle is a personal Asset.
4. That on the facts and circumstances of the case the Learned Assessing Officer erred in considering the sale of property amount as undisclosed income.
5. That on the facts and circumstances of the case the Learned Assessing Officer erred in considering the cash deposit of Rs 998000 as 1,09,97,000 and accordingly deeming it to be undisclosed income.
6. Any other ground that may be preferred during the course of hearing.

3. Brief facts of the case are that, the assessee did not file his return of income for the A.Y. 2015-16. The learned assessing officer ("ld. AO") came to know from the ITBA portal that during the A.Y. 2015-16 the assessee carried out financial transactions amounting to Rs.1,56,06,787/-. Hence the ld.AO initiated proceedings u/s 147 of the income tax Act, 1961 ("the Act") and a notice u/s 148 dated 27.03.2021 was issued and served to the assessee requiring him to submit the return of income within 30 days from the service of the notice. In response to the notice, no return of income was filed by the assessee. Thereafter, notice u/s

142(1) dated 20.09.2021 was issued but again, no compliance was made. Thus, the Assessing Officer completed the assessment u/s 144 r.w.s. 147 r.w.s. 144B of the Act and assessed the total income at Rs.1,53,38,820/-.

4. Feeling aggrieved, the assessee preferred appeal before the Id. CIT(A). Before the Ld. CIT(A) also the assessee did not respond in spite issue of many notices. Finally, the Id. CIT(A) dismissed the appeal of the assessee by observing as under:

5.3. It is worth mentioning that the appellant has been habitually non-compliant. The appellant did not file any reply to the numerous notices u/s 142(1) and the show-cause issued by the AO, leading to the assessment being completed on an ex-parte basis u/s 144. Even in the present appellate proceedings, despite the service of repeated notices on the mail id given by the appellant himself in Form 35, while filing this appeal and also having confirmed that the notices/communication may be sent on this email, the appellant has remained non-compliant and has not filed even a letter seeking an adjournment.

5.4 Due to the non-compliant attitude of the appellant, the appeal has to be decided on merits and facts available on record. I have carefully perused the grounds of appeal, statement of facts and the assessment order to look for any fact which may be helpful in furthering the cause of the appellant, but could not find any. The A.O had made the addition specifically because the appellant failed to give any satisfactory explanation regarding the source of cash deposit and credit card payments, salary income and sale of property, despite being provided with reasonable opportunity. Even during the present appellate proceedings, the appellant failed to give any submission / evidence whatsoever and chose to remain non-compliant. The facts stated in the grounds of appeal are very cryptic, vague and general in nature and do not come to rescue of appellant. The appellant has not provided even a primary or basic evidence about the source of cash deposit, forming the bulk of the assessed income as well as any other income assessed by

the AO. Thus, the appellant has not discharged the primary onus of explaining his case. The appellant has not produced any material to controvert the finding of A.O. on merits. Further, from the above conduct of the appellant, it is clear that the appellant is not interested in pursuing his appeal. In the event, I have no reason to interfere with the findings of the AO. **In view of these facts, I am of the opinion that no interference is called for in the AO's assessment order and therefore, the grounds of appeal are dismissed.**

5. Feeling aggrieved with such order of the Id. CIT(A), the assessee preferred this appeal before the Tribunal.

6. The learned AR submitted that the assessee is a salaried employee during the AY under consideration. During the said period the assessee due to certain personal exigencies, underwent domestic problems which continued thereafter for a couple of years too. Due to the said problems the Assessee could not make compliances before the revenue authorities. Learned AR further submitted that the Assessee being a salaried employee substantial part of the tax liability was already discharged by way of TDS done by the employer and the same was not considered by the Id. AO while passing the order. This resulted in such a huge tax demand in the case. Moreover, the Ld.AO treated the salary income, credit card payments, sale of vehicle and sale of land as undisclosed income. The learned AR further submitted that the assessee does not stand to gain by allowing the appeal to be disposed of without any documentary evidence being produced, and it is only due to the reasons beyond the control of the assessee, the assessee could

not produce the documents. By consolidating all the grounds, he further submitted that given an opportunity, the assessee is now ready to produce all such details and conduct the proceedings diligently and get the matter disposed of on merits.

7. Per contra, learned DR placed heavy reliance on the orders of the revenue authorities, and submitted that sufficient opportunity has already been given by the authorities, but the assessee failed to avail the same. He opposed the grant of further opportunity to the assessee.

8. We have heard the rival submissions and also gone through the record in the light of the submissions made on either side. It could be seen from the orders of the authorities that the assessee failed to produce the details with regards to the financial transactions amounting to Rs.1,56,06,787/- carried out during the A.Y.2015-16, which resulted in passing the orders without consideration thereof. It is a fact that the assessee does not stand to gain by not producing such documents. Be that as it may, now that the assessee is ready to produce all such documentary evidence in support of his contentions and get the matter disposed of on merits. The highest that would happen by allowing an opportunity to the assessee is that a cause would be decided on merits. With this view of the matter, we are of the view that fresh opportunity should be given to the assessee and, accordingly, we set aside the impugned order and restore the issue to the file of the Id. CIT(A) for passing a fresh order on merits after affording the

opportunity of hearing to the assessee. Grounds of appeal are answered accordingly.

9. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the Open Court on 9th May, 2024.

Sd/- (K. NARASIMHA CHARY) JUDICIAL MEMBER	Sd/- (MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER
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Hyderabad, dated 9th May, 2024

Vinodan/sps

Copy to:

S.No	Addresses
1	Sri Ramakrishna Vendrapu, C-15, SCB-7-27-033 Ramakrishnapuram Marg, Hyderabad 500056
2	Income Tax Officer Ward 15(1) IT Towers, AC Guards, Masab Tank, Hyderabad 500004
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order