

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

BEFORE
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER
&
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं/ITA No. 228/Hyd/2024
(निर्धारण वर्ष/Assessment Year: 2017-18)

Janakiram Dammalapati, Vs. Income Tax Officer,
P.O. Bhadrachalam, Ward-1,
Khammam Kothagudem

[PAN No. ARJPD0079L]

अपीलार्थी/Appellant

प्रत्यर्थी/Respondent

निर्धारित द्वारा/Assessee by: Smt. S. Sandhya, AR
(Appeared through virtual mode)

राजस्व द्वारा/Revenue by: Shri Shakeer Ahamed, DR

सुनवाई की तारीख/Date of hearing: 06/05/2024

घोषणा की तारीख/Pronouncement on: 09/05/2024

आदेश / ORDER

PER MADHUSUDAN SAWDIA, A.M:

The captioned appeal has been filed at the instance of Janakiram Dammalapati ("the assessee"), against the order dated 23/02/2024, passed by the learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre

(NFAC), Delhi (“Ld. CIT(A)”), relating to the assessment year (AY) 2017-18.

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

- 1) The order of the learned CIT (A) is erroneous to the extent it is prejudicial to the appellant;*
- 2) The learned CIT (A) erred in not admitting the appeal on the ground that the provisions of Sec.249(4)(b) are applicable ;*
- 3) The learned CIT (A) erred in not deciding the grounds of appeal on merit;*
- 4) The learned CIT (A) ought to have provided an opportunity before disposing the appeal by ===== 249(4)(a) / 249(4)(b) of the Act.*
- 5) Any other ground/grounds that may be urged at the time of hearing;*

3. Brief facts of the case as culled out from the record are that the assessee is an individual and he did not file his return of income for the A.Y. 2017-18. As per information available in the ITS/ITBA, Ld.AO found that the assessee has made high value transactions for the year under consideration and, therefore, issued a notice u/s. 148 of the Income Tax Act, 1961 (for short “the Act”), requiring the assessee to file the return of income. Since no return of income filed by the assessee in response to notice u/s. 148 of the Act, Ld.AO issued notices u/s. 142(1) of the Act on different dates to the assessee, seeking information regarding these high value transactions, however, the assessee did not respond to the notices issued by the Ld.AO.

3.1. Since the assessee did not furnish the details sought and even did not file his return of income for the year under consideration, the Ld.AO on the basis of high value transactions available in the ITS/ITBA made assessment u/s. 147 r.w.s. 144 r.w.s. 144B of the Act, by treating the cash deposits in current account of Rs. 1,30,60,000/-, receipt on account of Life Insurance Policy of Rs. 2,72,329/- and 8% of contractual receipts to the tune of Rs. 48,64,101/- i.e., Rs. 3,89,128/- as the income of the assessee and finally assessed the total income at Rs. 1,37,21,460/-, by order dated 12/03/2022.

4. Aggrieved, assessee preferred appeal before the Ld.CIT(A). Ld.CIT(A) dismissed the appeal of the assessee, contending that the assessee has neither paid the requisite amount of advance tax which was payable on or before filing the appeal u/s. 249(4)(b) of the Act nor the assessee has made any request for exemption from payment of such advance tax in accordance with the proviso to section 249(4)(b) of the Act. The relevant observations of the Ld.CIT(A) are reproduced, as under:

“... ”

2.8. As per section 249(4)(b) of the Act, the appeal shall not be admitted, unless the appellant has paid an amount equal to the amount of advance tax which was payable. Moreover, the appellant has also not made an application as per the Proviso to Section 249(4). As the applicable advance tax has not been paid by the appellant before filing of the present appeal and the appellant has not made application as per the proviso, the present appeal

shall not be admitted. In the present appeal, it is held that the appellant has not complied with the provisions of section 249(4)(b) of the Act and hence the appeal is not admitted and is also treated as dismissed.”

5. Feeling aggrieved with the order of the Ld. CIT(A), the assessee is now in appeal before us.

6. The learned AR submitted that the Ld. CIT(A) erred in not admitting the appeal of the assessee by invoking the provisions of section 249(4)(b) of the Act. Learned AR finally prayed the Bench that since the assessee has got good case to be presented, given an opportunity in the interest of justice, assessee is ready to appear before the Ld.AO and pursue the case diligently by submitting the relevant documents/evidences in support of the cash deposited into the bank account, receipt on account of Life Insurance Policies and income earned from contractual receipt.

7. Learned DR, on the other hand, vehemently opposed the contentions raised on behalf of the assessee and contended that since the assessee has not paid the requisite amount of advance tax, which was payable on or before filing the appeal, the order of the Ld. CIT(A) in dismissing the appeal, is justifiable and the same may be upheld and, therefore, argued that there is no point in granting 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 order of the Ld.AO that the assessee failed to produce the details with regard to the high value transactions for the year under consideration, which resulted in passing the orders without consideration thereof. Further the assessee neither paid any amount which was required to be paid as advance tax as per the provisions of section 249(4)(b) of the Act nor made any request before the Ld. CIT(A) for exemption from payment of such advance tax in accordance with the proviso to section 249(4)(b) of the Act, as a result of which the Ld. CIT(A) dismissed the appeal of the assessee.

8.1. It is also 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, in the interest of justice, we are of the view that a 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 Ld.AO for passing a fresh order on merits, after affording the opportunity of hearing to the assessee. The assessee is also directed to prepare a computation of income and pay the

income tax due thereon within one month from the date of receipt this order. Grounds of appeal are answered accordingly.

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

Order pronounced in the open court on 9th day of May, 2024.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Sd/-
(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Hyderabad,
Dated: 09/05/2024

TNMM

Copy forwarded to:

1. Janakiram Dammalapati, 15-1-63, SRN Colony, P.O. Bhadrachalam, Khammam-507111.
2. The Income Tax Officer, Ward-1, Kothagudem.
3. Pr.CIT, Hyderabad.
2. DR, ITAT, Hyderabad.
3. GUARD FILE

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ASSISTANT REGISTRAR
ITAT, HYDERABAD