

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.255/Hyd/2024**
(निर्धारण वर्ष/Assessment Year: 2017-18)

Shri Kunchi Krishna Murthy, Madanapalle PAN:BQRPKS5790H (Appellant)	Vs.	Income Tax Officer Ward-1 Madanapalle (Respondent)
निर्धारिती द्वारा/Assessee by:	Shri K.A. Sai Prasad, CA	
राजस्व द्वारा/Revenue by:	Shri AVES Madhukar, DR	
सुनवाई की तारीख/Date of hearing:	09/05/2024	
घोषणा की तारीख/Pronouncement:	09/05/2024	

आदेश/ORDER

Per Manjunatha, G. A.M

This appeal filed by the assessee is directed against the order dated 09/01/2022 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2017-18.

2. At the outset, it is seen that there is a delay of 7 days in filing of the appeal before the Tribunal for which the assessee has filed petition explaining the reasons for such delay. After considering the explanation given by the assessee and after discussing issue with the learned DR, the delay in filing of the appeal by the assessee before the Tribunal is hereby condoned and the appeal is admitted for adjudication.

2. The assessee has raised the following grounds:

i) The order of the learned first appellate authority confirming the order passed by learned Assessing Officer u/s 144 of the I.T. Act is arbitrary and contrary to the provisions of law and facts of the case.

ii) The learned first appellate authority is not justified in confirming the cash deposit of Rs.39,49,288/- as unexplained money u/s 69A of the I.T. Act.

iii) The learned first appellate authority failed to appreciate that the estimation of profit on cash credits of Rs.3,08,46,712/- at 8% amounting to Rs.24,64,737/- is on higher side.

iv) The appellant prays leave to add or amend or alter any of the grounds at the time of hearing of appeal”.

3. Facts of the case, in brief, are that the assessee is an individual and not filed his return of income for the A.Y 2017-18. During the financial year 2016-17 relevant to A.Y 2017-18 the assessee has made several credits in his bank account. Out of this, the assessee made cash deposits to the tune of Rs.39,49,288/-. In view of this, a notice u/s 142(1) of the I.T. Act was issued to the assessee on 14.2.2018 calling for the return of income for the A.Y 2017-18 on or before 16.03.2018. Since there was no response from the assessee, notices u/s 142(1) dated 16.8.2019, 03.09.2019 and 29.10.2019 issued to the assessee to submit his return of income along with necessary details. Despite the above notices, the assessee failed to comply with the notices issued by the Department. Finally, a show cause notice was issued to the assessee to submit the return of income and details before 19.12.2019. Again, no response was received by the Department regarding the sources of the cash deposits of Rs.39,49,288/- made in specified bank notes in the bank

account. Thus, the Assessing Officer determined the total income of the assessee at Rs.64,17,025/-.

4. In appeal, learned CIT (A) NFAC dismissed the appeal of the assessee on the ground that the assessee is not interested in pursuing his appeal and upheld the action of the Assessing Officer.

5. Aggrieved with such order of the learned CIT (A) NFAC the assessee is in appeal before the Tribunal.

6. The learned Counsel for the assessee fairly conceded that there was a failure on the part of the assessee not to file return of income along with necessary details which was due to certain unavoidable reasons which was beyond the control of the assessee. He further submitted that given an opportunity, the assessee would be in a position to submit the requisite details before the Assessing Officer.

7. The learned DR, on the other hand, submitted that despite issuance of several notices, the assessee failed to comply with the statutory notices issued by the Department and failed to submit return of income for the impugned A.Y. Hence, the appeal filed by the assessee be dismissed.

8. We have heard the rival arguments made by both the sides and perused the orders of the AO and the learned CIT (A). We find the AO in the instant case made addition of Rs. 64,17,025/- on the ground that the assessee failed to comply with

the statutory notices issued by the Department. We find the assessee failed to furnish return of income along with necessary details before the lower authorities despite issuance of several notices. This speaks volume and careless attitude of the assessee for the statutory notices issued by the Department. It is the submission of the learned Counsel for the assessee, given an opportunity, the assessee would be in a position to file the return of income along with the details to substantiate his case. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the Assessing Officer with a direction to grant one more opportunity to the assessee to substantiate his case. Looking to the careless attitude of the assessee to the statutory notices issued by the Department for non-compliance, the assessee is hereby directed to pay a sum of Rs.3000/- to the State Legal Aid Services Department of the Hon'ble Telangana High Court. The assessee is directed to submit the payment slip to the Registry, ITAT Hyderabad Benches within a period of 2 months from the date of this order. We hold and direct accordingly.

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

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

Sd/- (LALIET KUMAR) JUDICIAL MEMBER	Sd/- (MANJUNATHA, G.) ACCOUNTANT MEMBER
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Hyderabad, dated 9th May, 2024
Vinodan/sps

Copy to:

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3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order