

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 Nos.144 to 148/Hyd/2024**
(निर्धारण वर्ष/Assessment Year: 2012-13 to 2014-15)

Sree Sripuram Enterprises Tirupati PAN:ABLFS4832Q (Appellant)	Vs.	Income Tax Officer Ward 1(3) Tirupati (Respondent)
निर्धारिती द्वारा/Assessee by:		Advocate Santi Pawan Kumar
राजस्व द्वारा/Revenue by:		Shri Kumar Pranav and Shri AVES Madhukar, CIT(DR)
सुनवाई की तारीख/Date of hearing:		09/05/2024
घोषणा की तारीख/Pronouncement:		09/05/2024

आदेश/ORDER

Per Bench:

The above batch of 5 appeals filed by the assessee are directed against the separate orders of the learned CIT (A)-NFAC Delhi, relating to A.Ys. 2012-13 to 2014-15. Since common issues are involved in all these appeals, for the sake of convenience, these were heard together and are being disposed of by this common order.

ITA No.144/Hyd/2024 – A.Y 2012-13

2. At the outset it was noticed that the assessee has filed this appeal with a delay of 180 days. The assessee has filed a condonation petition and explained the reasons for this delay. The learned DR has no objection if the appeal is admitted for adjudication. After considering the contents of the condonation petition, the delay of 180 days in filing of this appeal is condoned.

3. The grounds raised by the assessee in this appeal reads as under:

1. The impugned order passed by the learned Assessing Officer, in so far as it is against the appellant is opposed to law, weight of evidence, natural justice, probabilities, facts and circumstances of the Appellant's case.
2. The learned Commissioner of Income-tax ought to have given opportunity adhering the principles of natural justice and pass the order on merits rather dismissing the appeal filed by the Appellant in limine, under the facts and circumstances of the case.
3. The Appellant denies himself to be liable for the assessed total income of Rs. 1,48,38,752/-, as against the returned income at Rs. 12,72,971/-, on the facts and circumstances of the case.
4. Whether the learned Authorities below are justified in disallowing Rs. 36,08,253/-, as capital introduced by the partners during the impugned assessment year 2012-13, on the facts and circumstances of the case.

5. Whether the learned Authorities below are justified in disallowing Rs. 89,58,266/- as unsecured creditors and sundry creditors, on the facts and circumstances of the case.
6. Whether the learned Authorities below are justified in disallowing Rs. 6,75,818/- under section 40(a)(ia) of the Income Tax Act, 1961 as interest and financial charges paid during the financial year 2011-12, on the facts and circumstances of the case.
7. Whether the learned Authorities below are justified in disallowing 20% of expenditure amounting to Rs. 15,21,415/-, on the facts and circumstances of the case.
8. Whether the learned Authorities below are justified in disallowing audit fees which amounted to Rs. 75,000/-, under section 40(a)(ia) of the Act, on the facts and circumstances of the case.
9. The Appellant denies himself liable to be charged to interest under section 234B & 234C of the Income-Tax Act, 1961, on the facts and circumstances of the case.
10. The Appellant craves leave to add, alter, delete or substitute any of the grounds urged above during the time of hearing this appeal.
11. In the view of the above and other grounds that may be urged at the time of the hearing of the appeal, the Appellant prays that the appeal may be allowed in the interest of justice and equity.

4. Facts of the case, in brief, are that the assessee is a firm and an ITC dealer, filed its return of income for the A.Y 2012-13 on 30.09.2012 electronically declaring total income of Rs.12,72,971/-. The case of the assessee was selected for scrutiny under the CASS. After issuance of statutory notices, the Assessing Officer examined the details. The Assessing Officer gave ample opportunity to the assessee to file details and reply the show cause notices issued. However, the assessee failed to file the complete details and did not reply to the show cause notices. Finally, the Assessing Officer was constrained to pass an order u/s 144 of the Act and made a total demand of Rs.1,48,38,752/-.

5. In appeal, the learned CIT (A) NFAC, after considering the written submission filed by the assessee and observed as under:

5. **DECISION:** I have very carefully considered the facts of the case, assessment order of the AO the grounds of appeal and the submissions of the assessee. The hearing in this case was fixed on a number of occasions as mentioned in the para 1 above but no written submissions were filed by the assessee. From the above discussion and the conduct of the assessee, it appears that the assessee does not wish to pursue appeal filed by him. The appeal being very old, it cannot be kept pending indefinitely. Accordingly, I proceed to pass the order ex-parte on the basis of material available on record.

5.1 The appellant, a firm filed its return of income for A.Y.2012-13 on 30-09-2012 electronically declaring a total income of Rs.12,72,971/-. The assessee is an ITC dealer. The case of the assessee was selected for scrutiny under the CASS. After the issue of statutory notices, the AO examined the details. The AO gave ample opportunity to the assessee to file details and reply the show cause. However, the assessee failed to file the complete details and did not reply the show cause. Finally, the AO was constrained to pass an order u/s,144 of the Act making the following additions/disallowances to the returned income.

1	Capital Introduced by the Partners	Rs 36,08,253
2	Unsecured Creditors & Sundry Creditors	Rs 89,58,266
3	Disallowance u/s 40(a)(ia) Interest and Financial Charges	Rs 6,75,818
4	Disallowance of Expenditures	Rs 15,21,15
5	Disallowance u/s 40(a)(ia) Audit fees	Rs 75,000
	Total Disallowances	Rs 1,48,38,752

5.2 Earlier, the assessee had filed written submissions vide a letter dated: 05.11.2019 which was forwarded to the AO for his remand report. The AO submitted the remand report vide letter dated 26.06.2019 which states that the assessee did not submit complete details before the AO and could not satisfy the AO as to the genuineness of transactions. In this view of the matter, I find that the additions/disallowances made by the AO are sustainable and I do not see any reason to interfere with the order of the AO.

Hence, the grounds of appeal are Dismissed.

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

7. The learned Counsel for the assessee fairly conceded that there was a failure on the part of the assessee in not filing details and written submissions which was due to certain unavoidable reasons and 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 learned Assessing Officer.

8. 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 details along with written submission for the impugned A.Y. Hence, the appeal filed by the assessee be dismissed.

9. 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. 1,48,38,752/- on the ground that the assessee failed to comply with the statutory notices issued by the Department and non-furnishing of written submission. We find the assessee failed to furnish 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 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 learned 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 lower authorities 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.

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

ITA Nos.145 to 148

11. Since identical grounds have been raised by the assessee in all the remaining appeals, following similar reasonings given in ITA No.144/Hyd/2024 for the A.Y 2012-13, the appeals in ITA Nos.145 to 148/Hyd/2024 are also restored to the file of the learned Assessing Officer for affording an opportunity of hearing to the assessee.

12. To sum up, all the appeals filed by the assessee are 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:

S.No	Addresses
1	Sree Sripuram Enterprises, D.No.19-9-29/5 Lakshmi Puram, Tiruchanoor Road, Tirupati 517501
2	Income Tax Officer 1(3) Aayakar Bhavan, KT Road, Tirupati 517501
3	Pr. CIT – Tirupati
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order