

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT
AND SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No.554/Bang/2024
Assessment Year : 2016-17

Sunil Kumar Ravi, No.1902, B Aparna Elina, SY No.47, Near Railway Station, Tumkur Road, Yeshwantpur, Bengaluru-560 022. PAN – AEDPS 9307 R	Vs.	The Asst. Commissioner of Income Tax, Circle-6(1)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri C Ramesh, CA
Revenue by	:	Shri Subramanian S, JCIT (DR)

Date of hearing	:	09.05.2024
Date of Pronouncement	:	16.05.2024

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This is an appeal filed by the assessee against the order passed by the NFAC, New Delhi dated 01/12/2023 in DIN No. ITBA/ NFAC /S/ 250/2023-24/1058399233(1) for the assessment year 2016-17.

2. At the outset, it was noticed that there was a delay in filing the appeal by the assessee for 55 days. The assessee has filed condonation petition along with the Affidavit justifying the reason for the delay in filing the appeal. It was submitted that the Tax Consultant, who was handling the matter was diagnosed with Cancer and, therefore, due to ill health, he could not appear before the Id. CIT(A) as well as failed to

file the appeal before the ITAT within the stipulated time. The assessee, in support of his contention filed the medical reports of the Tax Consultant along with the letter of the Tax Consultant dated 27/01/2024 stating about his medical conditions. All these details are placed on pages 10 to 15 of the paper book. In view of the above, the Id. AR requested to condone the delay in filing the appeal by the assessee and decide the issue on merit.

3. On the other hand, the Id. DR did not raise any objections if the delay is condoned and matter is decided on merit as per the provision of law.

4. Heard the rival contentions of both the parties and perused the materials available on record. Considering the reasons for the delay in filing the appeal by the assessee, we find that there was genuine cause for the delay in filing the appeal before us. Accordingly, we condone the delay and proceed to adjudicate the issue on merit.

5. In the present case, information was received by the AO from ITBA Portal that the assessee has received salary income of Rs.1 crore, which has not been disclosed in the Income Tax Return. Likewise, the assessee has also incurred expenses through credit card amounting to Rs. 16,20,590/-, the source of which was not explained. Accordingly, the AO sought an explanation from the assessee but there was no compliance. Thus, the AO added the sum of Rs. 1 crore and unexplained expenditure of Rs. 16,20,590/- to the total income of the assessee.

6. Aggrieved, the assessee preferred an appeal before the Id. CIT(A).

7. The assessee in the ground of appeal before the Id. CIT(A) submitted that he has not received any salary of Rs. 1 crore from the

company viz., M/s Krishna Enterprises India Pvt. Limited. As per the assessee, there was some error on the part of the company and, therefore, mistakenly the salary was shown in the name of the assessee. However, the assessee submitted that he is trying to collect the details after necessary rectification from the company, to justify that he has not received any salary from the company. Likewise, the assessee also submitted that the credit card expenses were incurred by the firm viz., Krishna Development Corporation, which were duly accounted for in the books of the partnership firm. As such the assessee has not incurred any expenses as alleged by the AO through the credit card. The assessee also pointed out that the credit card was the corporate card, which was issued by the bank on behalf of the firm to the assessee. However, the Id. CIT(A) dismissed the appeal of the assessee by observing that the assessee failed to furnish the supporting details from the respective companies viz., M/s Krishan Enterprises India Pvt. Ltd., and Krishna Development Corporation. Thus, the Id. CIT(A) upheld the finding of the AO.

8. Being aggrieved by the order of the Id. CIT(A), the assessee is in appeal before us.

9. The Id. AR before us filed rectified Form 26AS, which is placed on pages 18 to 19 of the paper book and confirmation from the company stating that the assessee has not received any salary as alleged by the AO, such confirmation is placed at page 20 of paper book. Likewise, the Id. AR also filed the ledger extract in the books of account of partnership firm viz. Krishna Development Corporation demonstrating that such expenses have been accounted for in the books of the partnership firm. The Id. AR further fairly agreed that all the above details were not available either before the AO or before the Id. CIT(A). Therefore, the Id.

AR requested to remand the matter back to the file of the AO for fresh adjudication as per the provisions of law.

10. On the contrary, the Id. DR vehemently supported the orders of the authorities below.

11. We have heard the rival contentions of both the parties and perused the materials available on record. From the preceding discussion, it appears to us that the assessee has made out a strong case which in our considered view should not be thrown away due to technical lapses. As such, confirming the addition/ disallowance made by the Revenue authorities will not be commensurate to the mistake committed by the assessee. Furthermore, the Id. AR has also undertaken the responsibility of making necessary compliances and extending full co-operation during the assessment proceedings. The assessee is also directed to file all the necessary documents in support of his claim and refrain from taking any unnecessary adjournment. Thus, in view of the above, we are inclined to grant one more opportunity to the assessee to set up his case before the AO. With these observations, the matter is set aside to the file of the AO for fresh adjudication as per the provision of law. Hence, the ground of appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in court on 16th day of May, 2024

Sd/-

(GEORGE GEORGE K)

Vice President

Bangalore,
Dated, 16th May, 2024

Sd/-

(WASEEM AHMED)

Accountant Member

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore