

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH: BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.672/Bang/2024
Assessment Year: 2018-19

Veeraraj Srikanth Konanur 82, Kumara Beedu, Gaddige Road Elwala Hobli Mysore 571130 PAN NO : ADVPK6283F	Vs.	ITO Ward-1(1) Mysore
APPELLANT		RESPONDENT

Appellant by	:	Shri Tarun Kothari, A.R.
Respondent by	:	Shri V. Parithivel, D.R.

Date of Hearing	:	16.05.2024
Date of Pronouncement	:	16.05.2024

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal by assessee is directed against order of NFAC for the assessment year 2018-19 dated 20.10.2023. the assessee has raised following grounds of appeal:

- The order passed by the learned Commissioner of Income Tax, NFAC, under section 250 of the Act is so far as it is against the Appellant is opposed to law, weight of evidence, probabilities, facts and circumstances of the Appellant's case.*
- The appellant denies himself to be assessed at Rs. 4,02,08,585/- as against the returned income of Rs. 14,17,345/- for the assessment year 2018-19 under the facts and circumstances of the case.*
- The learned CIT(A) ought to have provided another opportunity of hearing in the interest of natural justice and equity.*
- Grounds on addition made under section 69A, Rs,3,87,91,240/-:*
 - The learned assessing officer is not justified in making addition under section 69A of the Act where the nature and source of cash*

deposits stands explained, on the facts and circumstances of the case

b. The power to invoke the provisions of section 69A of the Act is directory and not mandatory in nature.

c. The appellant denies the liability to pay interest under section 234A, 234B and 234C of the Act in view of the fact that there is no liability to additional tax as determined by the learned assessing officer. Without prejudice the rate, period and on what quantum the interest has been levied are not in accordance with law and further are not discernable from the order and hence deserves to be cancelled on the facts and circumstances of the case.

5. The appellant craves leave to add, alter, delete or substitute any of the grounds urged above.

6. In 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 and appropriate relief be granted in the interest of justice and equity.

2. There was a delay of 118 days in filing the appeal before this Tribunal, though assessee not mentioned the delay in its form No.36. The assessee explained the delay by way of condonation petition stating that he is not aware of the tax compliance and relied on his tax practitioner for the compliances. He submitted that the tax practitioner provided his office mail id while filing the appeal before the first appellate authority and all the hearing notices were sent to the said mail id and that the assessee was unaware of the ongoing proceedings. The assessee was manually served with a notice u/s 271AAC dated 26.3.2024 from the I.T. department and he approached the tax practitioner who thereafter logged into the e filing portal and realized that the CIT(A) has dismissed the appeal. The assessee thereafter approached the present counsel and the appeal came to be filed before this Tribunal on 15.4.2024. The assessee submitted that due to the above reasons the appeal could not be filed within the due date i.e. 19.12.2023. Nevertheless, the appeal came to be filed on 15.4.2024 resulting in a delay of 118 days for the reasons mentioned above.

3. We have carefully gone through the condonation petition filed by the assessee. We find good and sufficient reason in filing the appeal belatedly before this Tribunal. Accordingly, in the interest of justice, we condone the delay and admit the appeal for adjudication.

4. At the time of hearing, both the parties fairly conceded that the assessment order as well as order of NFAC is ex-parte without giving opportunity of hearing to the assessee. Accordingly, we remit the entire issue in dispute to the file of ld. AO for fresh consideration to decide the same afresh after giving an opportunity of hearing to the assessee.

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

Order pronounced in the open court on 16th May, 2024

Sd/-
(Keshav Dubey)
Judicial Member

Sd/-
(Chandra Poojari)
Accountant Member

Bangalore,
Dated 16th May, 2024.
VG/SPS

Copy to:

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

By order

Asst. Registrar,
ITAT, Bangalore.