

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B' Bench, Hyderabad

Before Shri Laliet Kumar, Judicial Member
And
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं / **ITA No. 135/Hyd/2024**
(निर्धारण वर्ष/Assessment Year: 2017-18)

Sri Ambica Medical Agencies, Kavali A.P PAN: ABWFS4716L (Appellant)	Vs.	Income Tax Officer Ward-2 Nellore (Respondent)
निर्धारिती द्वारा/Assessee by:	Shri M Nithin Kumar	
राजस्व द्वारा/Revenue by:	Shri Rahul Singhanian, DR	
सुनवाई की तारीख/Date of hearing:	16/05/2024	
घोषणा की तारीख/Pronouncement:	20/05/2024	

आदेश/ORDER

Per Madhusudan Sawdia, A.M

This appeal is filed by Sri Ambika Medical Agencies (“the assessee”), feeling aggrieved by the order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (“ld. CIT(A)”), dated 20/12/2023 for the AY 2017-18.

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

- “1. The learned CIT(A) has erred in law and on facts and circumstances of the case in dismissing the appeal filed for the AY 2017-18.
2. The learned CIT(A) has grossly erred in law and on facts in dismissing the appeal filed for the AY 2017-18 summarily for non-compliance and non pursuance during appeal proceedings without adjudicating on merits of the grounds of appeal raised in Form-35.
3. The learned CIT(A) has grossly erred in law and on facts in dismissing the appeal filed for the AY 2017-18 summarily and without adjudicating on merits of the grounds of appeal raised in Form-35 which are self contained and facts of the case stated in Form-35.
4. The learned CIT(A) has grossly erred in law and on facts in not holding that the treatment of cash deposit of Rs. 45,54,221 during the demonetisation period as unexplained money while accepting that the cash deposits made outside the demonetisation period are turnover of the Appellant.
5. The learned CIT(A) has grossly erred in law and on facts in not holding that the estimation of income on the gross cash deposits made outside the demonetisation period at the rate of 8% without any basis and ignoring the nature of business of the Appellant.
6. The Appellant craves to leave to amend, alter, add or delete any ground of appeal at any time before or during the hearing of the appeal.”

3. Facts of the case, in brief, are that the assessee had deposited cash of Rs.2,75,33,236/- including cash deposit of Rs.45,54,221/- during the demonetization period (i.e.) between 09.11.2016 to 30.12.2016 in its bank accounts with the State Bank of India during the Financial Year 2016-7, relevant to the A.Y.2017-18 . Based on the same, the learned Assessing Officer (“Ld. AO”) issued a notice u/s.142(1) of the income tax Act,1961 (the Act”) calling for the Return of Income (“ROI”) of the assessee to be filed on or before 24.12.2017. As the assessee did not file its ROI within the time mentioned in the notice u/s.142(1) of the Act,

the Ld. AO initiated assessment proceedings u/s.144 of the Act and completed the assessment u/s 144 of the Act, making the addition of Rs.63,92,542/-.

4. Feeling aggrieved by the order passed by the Ld. AO, assessee filed appeal before the Ld. CIT(A), who dismissed the appeal of assessee on the ground of non-compliance on the part of the assessee during the appeal proceedings.

5. Feeling aggrieved with the order of Ld. CIT(A), the assessee is now in appeal before us, contending that the revenue authorities erred in declining sufficient opportunity to the assessee in proving the cash deposited in the bank . It is further contended that the Ld. CIT(A) has passed the order without providing proper opportunity. The learned AR further submitted that the assessee does not stand to gain by allowing the appeal to be disposed of without any documentary evidence being produced and it is only due to the reasons beyond the control of the assessee, the assessee could not produce the documents. By consolidating all the grounds, he further submitted that given an opportunity, the assessee is now ready to produce all such details and conduct the proceedings diligently and get the matter disposed of on merits.

6. Per contra, learned DR placed heavy reliance on the orders of the authorities below, and submitted that sufficient opportunity has

already been given by the authorities, but the assessee failed to avail the same. He opposed the grant of further opportunity to the assessee.

7. 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 orders of the authorities that the assessee failed to produce the details with regards to the deposit of cash in the bank, which resulted in passing the orders without consideration thereof. It is 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. In the interest of natural justice and to decide the issue on merits, we are of the view that 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. Grounds of appeal are answered accordingly.

8. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the Open Court on 20th May, 2024.

Sd/- (LALIET KUMAR) JUDICIAL MEMBER	Sd/- (MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER
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Hyderabad, dated 20th May, 2024

Vinodan/sps

Copy to:

S.No	Addresses
1	Sri Ambica Medical Agencies, Trunk Road, Opp: Muncif Court, Kavali, A.P.524201
2	Income Tax Officer Ward-2 Nellore
3	Pr. CIT - Nellore
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order