

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

**Before**  
**Shri Manjunatha, G. Accountant Member**

आ.अपी.सं / **ITA No.590/Hyd/2023**  
(निर्धारण वर्ष / Assessment Year: 2017-18)

Shri Naveen Kumar Bitla Warangal PAN:ATFPB0191D (Appellant)	Vs.	ACIT Circle 7(1) Hyderabad (Respondent)
निर्धारिती द्वारा / Assessee by: Advocate S Sandhya		
राजस्व द्वारा / Revenue by: Smt. Helen Ruby Jesindha, DR		
सुनवाई की तारीख / Date of hearing: 27/05/2024		
घोषणा की तारीख / Pronouncement: 27/05/2024		

**आदेश/ORDER**

This appeal filed by the assessee is directed against the order dated 23.05.2022 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2017-18.

2. At the outset, I find that there is a delay of 497 days in filing of this appeal before the Tribunal. The assessee has filed a petition along with an affidavit explaining the reasons for delay in filing of the appeal. According to the learned Counsel for the assessee, the assessee was suffering from left side paralysis with hypertension from July 2022 to January, 2023 and because of

this his movement was restricted. Since he could not freely move, he could not notice the appellate order passed by the learned CIT (A) which resulted in delay of 497 days. In this regard, the assessee has filed medical record including a medical certificate from a doctor to prove his case. Therefore, pleaded that the delay in filing of the appeal may be condoned.

3. The learned DR, on the other hand, submitted that although the appellant has filed certain evidences to prove the delay, but the fact remains that the delay in filing of the appeal is very huge and reasons given by the assessee does not come under the reasonable cause. Therefore, she submitted that the delay in filing of the appeal should not be condoned.

4. After hearing both the parties and considering the relevant reasons given by the appellant in his petition for condonation of delay, I find that the reasons given by the assessee for not filing the appeal in time is covered by covid period and post covid period. The covid period is covered by the order passed by the Hon'ble Supreme Court in suo motto writ petition extending limitation provided for filing any appeal and any petition before the Courts/Tribunals. In so far as the limitation covered by post covid period, the assessee has filed medical record including a certificate from the doctor and claimed that he has suffered with left side paralysis with hypertension between July,2022 to January, 2023. In my considered opinion, the

reasons given by the appellant for not filing of the appeal on or before the due date comes under reasonable cause and thus, the delay in filing of the appeal is hereby condoned and the appeal filed by the assessee is admitted for adjudication.

5. Facts of the case, in brief, are that the assessee is an individual and engaged in the business of retail trading of liquor. The assessee filed his return of income for the A.Y 2017-18 on 1.11.2017 admitting total income of Rs.18,37,600/-. The case was selected for scrutiny to verify cash deposits during the demonetization period. The Assessing Officer noticed that the assessee has made total cash deposits of Rs.53,70,000/- during demonetization period out of which sum of Rs.16,95,500/- was deposited in old specified bank notes. The Assessing Officer called upon the assessee to furnish the source for cash deposits. In response, the assessee claimed cash deposits during the demonetization period is out of opening cash in hand as on 8.11.2016 of Rs.7,25,909/- and balance amount of Rs.9,67,591/- is out of cash sales effected for the month of November. The Assessing Officer however, was not satisfied with the explanation furnished by the assessee and according to the Assessing Officer, the assessee cannot accept specified bank notes after 8.11.2016 and thus rejected the explanation of the assessee and made the addition of Rs.9,69,591/- as unexplained investment taxable u/s 69 of the I.T. Act, 1961.

6. The assessee carried the matter in appeal before the first appellate authority but neither appeared nor filed any evidences to prove the source for the cash deposits. Therefore, the learned CIT (A) dismissed the appeal filed by the assessee and sustained the additions made by the Assessing Officer u/s 69 of the I.T. Act, 1961.

7. Aggrieved by such order passed by the learned CIT (A), the assessee is in appeal before the Tribunal.

8. The learned Counsel for the assessee submitted that the learned CIT (A) is erred in sustaining the addition made by the Assessing Officer towards cash deposits ex-parte without providing proper opportunity of being heard to the assessee. She further submitted that the assessee has filed necessary evidences to prove the source for cash deposits and argued that the cash sale effected during the month of November has been deposited into the Bank account. The learned CIT (A) without considering the relevant fact simply sustained the addition made by the Assessing Officer.

9. The learned DR, on the other hand, supporting the order of the learned CIT (A) submitted that the assessee neither appeared nor filed any details, even though the assessee was given 4 dates of hearing to file necessary details. Since the

appellant could not furnish any evidence, the learned CIT (A) has rightly dismissed the appeal filed by the assessee and upheld the order passed by the Assessing Officer.

10. I have heard both the parties, perused the material available on record and gone through the orders of the lower authorities. Admittedly, the assessee did not appear before the first appellate authority, even though the first appellate authority has provided sufficient opportunity of being heard. However, the fact remains that the learned CIT (A) has dismissed the appeal filed by the assessee without discussion issues on merit in respect of source for cash deposits. The assessee has filed a paper book which contains cash book for the period from April, 2016 to March, 2017 and claimed that there is no abnormal increase in sales made during the demonetization period. I find that although the assessee has filed cash book extract which shows there is no abnormal increase in sales during the demonetization period when compared to earlier period, in my considered view, since the first appellate authority has passed the ex-parte assessment order, the matter needs to go back to the file of the learned CIT (A) for fresh adjudication and to consider the evidences filed by the assessee to justify the source for cash deposits. Thus, I set aside the order passed by the learned CIT (A) and restore the issue back to the file of the learned CIT (A) with a direction to reconsider the issue in the light of evidences that may be filed by the assessee to prove the source of cash deposits.

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

Order pronounced in the Open Court at the time of hearing itself, i.e. on 27<sup>th</sup> May, 2024.

Sd/-

**(MANJUNATHA, G.)  
ACCOUNTANT MEMBER**

Hyderabad, dated 27<sup>th</sup> May,  
2024

***Vinodan/sps***

Copy to:

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

*By Order*