

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "SMC", HYDERABAD

BEFORE SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 334/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2017-18)

Mohammed Ragivus Sebtain, Vs. Income Tax Officer,
Hyderabad Ward-9(4),
[PAN No. BIMPS5181F] Hyderabad
अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: NONE
राजस्व द्वारा/Revenue by: Shri R. Kumaran, DR

सुनवाई की तारीख/Date of hearing: 03/06/2024
घोषणा की तारीख/Pronouncement on: 06/06/2024

आदेश / ORDER

Aggrieved by the order dated 11/03/2024 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Mohammed Ragivus Sebtain ("the assessee") for the assessment year 2017-18, assessee preferred this appeal.

2. In spite of service of notices, none appeared on behalf of the assessee. Since notices were sent through registered mail, properly addressed and prepaid with postage, and also the notice was sent to the given e-mail ID, and the assessee did not turn up, I do not find any prospect of securing the presence of the assessee and, therefore, proceed to decide the merits of the case.

3. As could be seen from the record, I find that the learned CIT(A) disposed-of the appeal ex-parte, observing that various notices under section 250 of the Income Tax Act, 1961 (for short "the Act") were issued to the assessee, but the assessee failed to comply with any of such notices nor did the assessee produced any documents, explanation and evidence to substantiate the grounds raised.

4. Though the learned DR vehemently relied on the orders of the Revenue authorities, the fact remains that the learned CIT(A) did not refer to the facts nor did he dispose of the appeal on merits. Even in the absence of the assessee, it is always open for the learned CIT(A) to deal with the matter on merits, instead of dismissing the same.

5. Requirement of law under section 250 (6) of the Act is that the order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision. Even in the absence of the assessee, it is always open for the learned CIT(A) to deal with the matter on merits instead of dismissing the same in limine.

6. Having regard to the facts and circumstances of the case, I am of the considered opinion that the impugned order does not comply with the requirement of Section 250(6) of the Act and cannot be sustained. In these circumstances, affording an opportunity to the assessee to prosecute the appeal before the learned CIT(A) by submitting the documents/evidences, the highest that would happen is that a cause could be decided on merits. When the technicalities are pitted against the delivery of substantial justice, the former must give way to the latter.

7. With this view of the matter, I set aside the impugned order and restore the appeal to the file of the learned CIT(A) to pass an order in compliance with the provisions under section 250(6) of the Act. I direct the assessee to co-operate with the First Appellate Authority in getting the matter disposed of on merits, without seeking any adjournments and the

learned CIT(A) to take a fresh look at the matter, after affording a reasonable opportunity of being heard to the assessee. I order accordingly.

8. In the result, appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on this the 6th of June, 2024.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 06/06/2024

TNMM

Copy forwarded to:

1. Mohammed Ragivus Sebtain, H.No. 19-100, Vivekananda Nagar, Opp:
St. Annes Model High School, Sri Kodandaram Nagar P&T Colony,
Dilsukh Nagar, Hyderabad.
2. Income Tax Officer, Ward-9(4), Hyderabad.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE.

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD