

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “B” , HYDERABAD**

**BEFORE
SHRI LALIET KUMAR, JUDICIAL MEMBER
AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER**

ITA No.352/Hyd/2024		
Assessment Year: 2016-17		
Shri Sanjay Boggarapu, Hyderabad. PAN : ABEPB6127E	Vs.	The ITO, Ward 9(5), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Shri P. Murali Mohan Rao, C.A.	
Revenue by:	Ms. Sheetal Sarin, SR.AR	
Date of hearing:	05.06.2024	
Date of pronouncement:	11.06.2024	

ORDER

PER MADHUSUDAN SAWDIA, A.M.

This appeal is filed by Shri Sanjay Boggarapu (“the assessee”), feeling aggrieved by the order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (“Id. CIT(A)”), dated 09.11.2023 for the AY 2016-17.

2. At the outset, it is seen that, there is a delay of 89 days in filing of this appeal for which the assessee has filed a condonation petition along with affidavit explaining the reasons for such delay. After considering the contents of the condonation petition and

after hearing the Ld. DR, the delay of 89 days in filing of this appeal is condoned and the appeal is admitted for adjudication.

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

“1. The order passed by the Ld. CIT(A) u/s 250 of the Act dated 08.03.2024 is erroneous both on facts and in law to the extent the order is prejudicial to the interest of the appellant.

2. The Ld. CIT(A) ought to have appreciated the fact that the appellant has reasonable cause for non compliance of the notices of hearing issued u/s 250 of the Act.

3. The Ld. CIT(A) erred in not appreciating the fact that the difference arising in the assessment order is nothing but the opening balance of the creditors and addition on the same is not sustainable.

4. The Ld. CIT(A) ought to have appreciated the fact that the appellant has proved the identity, creditworthiness and genuineness of the transactions by providing details of PAN No., ITR Return Copies of the creditors and confirmation letters of the creditors.

5. Appellant may, add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal.”

4. Brief facts of the case are that the assessee is an individual, filed return of income for A.Y. 2016-17 on 29.03.2017 declaring a loss of (-) Rs.27,15,896. The case of the assessee was selected for limited scrutiny under CASS. During the assessment proceedings u/s. 143(3) of the Income Tax Act, 1961 (‘the Act’) the assessee could not explained before the learned Assessing Officer (‘Ld. AO’) the difference in the balance of unsecured loans amounting to Rs.60,66,161/-. Therefore the Ld. AO completed the assessment u/s 143(3) of the Act on 19/2/2018 adding the said

difference in the balance of unsecured loans amounting to Rs.60,66,161/-.

5. Feeling aggrieved by the order passed by the Ld. AO, assessee filed appeal before the Ld. CIT(A). During the appellate proceedings also the assessee did not responded inspite of various notices issued by the Ld. CIT(A). Therefore the Ld. CIT(A) dismissed the appeal of the assessee, upholding the addition made by the Ld. AO.

6. Feeling aggrieved with the order of Ld. CIT(A), the assessee is now in appeal before us, contending that the authorities erred in declining sufficient opportunity to the assessee in proving the difference in the balance of unsecured loans. 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.

7. 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.

8. 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 difference in the balance of unsecured loans, 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. The highest that would happen by allowing an opportunity to the assessee is that a cause would be decided on merits. With this view of the matter, 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. CIT(A) for passing a fresh order on merits after affording the opportunity of hearing to the assessee. Grounds of appeal are answered accordingly.

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

Order pronounced in the Open Court on June, 2024.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Sd/-
(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Hyderabad, dated 11th June, 2024.

- Reddy gp

Copy to:

S.No	Addresses
1	Shri Sanjay Boggarapu, C/o P Murali & Co., Chartered Accountants, 6-3-655/2/3, Somajiguda, Hyderabad-500082
2	ITO, Ward 9(5), Hyderabad.
3	PrI.CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order

Asst. Registrar, Hyderabad.

