

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

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

आ.अपी.सं/ITA No. 210/Hyd/2024  
(निर्धारण वर्ष/Assessment Year: 2017-18)

Vishwanathula Phanidhar, Karimnagar [PAN No. AFCPV6358M]	Vs. Income Tax Officer, Ward-2, Karimnagar
अपीलार्थी/Appellant	प्रत्यर्थी/Respondent

निर्धारित द्वारा/Assessee by: Shri K.A. Sai Prasad, AR  
appeared for  
Shri T. Chaitanya Kumar, AR

राजस्व द्वारा/Revenue by: Ms. Sheetal Sarin, DR

सुनवाई की तारीख/Date of hearing: 03/06/2024  
घोषणा की तारीख/Pronouncement on: 11/06/2024

**आदेश / ORDER**

**PER MADHUSUDAN SAWDIA, A.M:**

The captioned appeal has been filed at the instance of Shri Vishwanathula Phanidhar ('the assessee'), against the order dated 19/01/2024 passed by the Learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ('Ld. CIT(A)') relating to the assessment year (AY) 2017-18.

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

1. *The order of the learned Commissioner of Income-tax (Appeals) is erroneous both on facts and in law, in dismissing the appeal without giving any proper opportunity to the appellant.*

2. *The learned Commissioner of Income-tax (Appeals) erred in passing an order without giving any proper opportunity to the appellant. The order is ex-parte, illegal and arbitrary, and violative of the principles of natural justice.*

3. *The order of the learned Commissioner of Income-tax (Appeals) is arbitrary, illegal, and contrary to the provisions of the law, in confirming the order learned assessing in reopening the assessment u/s 147 r.w.s144 of the I.T. Act which is contrary to the facts of the case.*

4. *The learned Commissioner of Income-tax (Appeals) NFAC erred in confirming the action of the Assessing Officer in making the addition of Rs. 2,51,14,930/- by invoking the provisions of Sec.69A r.w.s 115BBE of the I.T.Act.*

5. *The very approach of the learned Commissioner of Income-tax (Appeals) /NFEAC in passing an order u/s 250 ex-party without giving any proper opportunity to confirm the action of the Assessing officer in making addition of Rs 2,51,14,930/- as an income of the appellant and further erred in treating the as unexplained money u/s 69A without giving any proper opportunity, is illegal arbitrary, without assigning any valid reasons, and is perverse, highhanded is contrary to the provisions law, therefore the order passed by the Learned Commissioner of Income Tax(appeals)NFAC dated Dated: 19/0112024 DIN & Order No : ITBAINFAC/S/250/2023\_ 24/1059947734(1) is illegal ex-facie and violative of principals of natural justice.*

6. *The assessing Officer erred in confirming the action of the assessing officer in determining the total income at Rs. 2,51,14,930/-. Without giving a proper opportunity to the appellant is illegal ex-facie and violative of principles of natural justice.*

7. *The learned Commissioner of Income-tax (Appeals) erred in confirming the action of the action of the Assessing Officer charging interest u/s 234A of Rs.1,08,64,672/- 234B of Rs.1,16,40,720/-.*

8. *Any other ground grounds that may be presented at the time of hearing.*

3. Brief facts of the case are that for the AY. 2017-18, it was noticed by the learned Assessing Officer (“Ld.AO”) that the assessee had made cash deposits into the bank account to the tune of Rs. 2,51,14,930/-, during the demonetization period. Accordingly, AO initiated the assessment proceedings u/s. 147 of the Income tax Act,1961 (“the Act”) and a notice u/s. 148 of the Act was issued to the assessee giving him 30 days' time to file the return of income. However, the assessee did not file any return of income. Subsequently, since there was no proper reply from the assessee for notices issued u/s. 142(1) of the Act on different dates, Ld.AO finalised the assessment u/s. 147 r.w.s. 144 r.w.s. 144B of the Act, treating the amount of Rs. 2,51,14,930/- as un-explained money u/s. 69A r.w.s. 115BBE of the Act.

4. 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 to the notices issued by the Ld. CIT(A) . Hence the Ld. CIT(A) upheld the action of Ld.AO thereby dismissing the appeal of assessee, observing as under:

*“...It is clear that the appellant has nothing to say or produce any documentary evidence in support of grounds raised. In these facts and circumstances, I am constrained to be in agreement with the finding of the Assessing Officer and hold that the appellant is unable to substantiate its claim and is not able to controvert the assessment order. The addition made by the Assessing Officer is therefore confirmed.”*

5. Feeling aggrieved with the order of learned 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 cash deposited in the bank. It is further contended that the learned 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. 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.

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

Order pronounced in the open court on 11<sup>th</sup> day of June, 2024.

Sd/-  
**(LALIET KUMAR)**  
**JUDICIAL MEMBER**

Sd/-  
**(MADHUSUDAN SAWDIA)**  
**ACCOUNTANT MEMBER**

Hyderabad,  
Dated: 11/06/2024

TNMM

Copy forwarded to:

1. Vishwanathula Phanidhar, C/o. Flat No. 101, Aditya Empress Towers, Shaikpet Nala, Tolichowki, Golkonda Post, Hyderabad.
2. The Income Tax Officer, Ward-2, Karimnagar.
3. Pr.CIT-Hyderabad.
2. DR, ITAT, Hyderabad.
3. GUARD FILE

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ASSISTANT REGISTRAR  
ITAT, HYDERABAD