

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

BEFORE SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER
&
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / ITA No. 107/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2017-18)

Padmanaba Reddy Metukuru, Vs. Income Tax Officer,
Nellore Ward-1,
[PAN : AJKPM5406H] Nellore

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: NONE
राजस्व द्वारा/Revenue by: Ms. Sheetal Sarin, DR

सुनवाई की तारीख/Date of hearing: 20/06/2024
घोषणा की तारीख/Pronouncement on: 21/06/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 06/12/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Padmanaba Reddy Metukuru ("the assessee") for the assessment year 2017-18, assessee preferred this appeal, with a delay of one day.

2. When the matter is called, neither the assessee nor any authorised representative entered appearance. It can be seen from the record that the notices were issued to the address and e-mail ID given in form No. 36 and also notice of date of hearing was served through e-mail, furnished by the assessee. Notice sent by registered mail with postage prepaid is also returned un-served. If the assessee is to be found in such address given in form-36, there is no reason as to why it is not served even for any reason the assessee is absent from such address. If for any reason, the assessee is not available there, it is for the assessee to make arrangements for service of such notice by furnishing the address where the assessee would be available, or to deliver it to some authorised person, or by making request to the postal department to detain the mail till the assessee claims the same. However, there is no appearance for the assessee. In these circumstances, we find no option, but to proceed to hear the counsel for Revenue. Considering the possibility of calculation errors in computing the period for filing the appeal, we condone the delay, and proceed to hear and decide the matter on merits basing on the material available on record.

3. As could be seen from the record, 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 make any written submissions. Impugned order reveals that the learned CIT(A) dismissed the appeal in limine due to the absence of the assessee without referring to the facts and merits of the case. Though the

learned DR adverted to the absence of the assessee as a reason for the learned CIT(A) not discussing the merits of the case, the fact remains that 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.

4. 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.

5. Having regard to the facts and circumstances of the case, we are 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. If the request of the learned AR is granted, affording an opportunity to the assessee to prosecute the appeal before the learned CIT(A) by submitting the 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.

6. With this view of the matter, we 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. We direct the assessee to co-operate with the First Appellate Authority in getting the matters 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. We order accordingly.

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

Order pronounced in the open court on this the 21st day of June, 2024.

Sd/-
(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 21/06/2024

TNMM

Copy forwarded to:

1. Padmanaba Reddy Metukuru, Agro Vikraya Seva Kendram, Anantha Sagaram, Anantha Sagaram Mandal, SPSR Nellore.
2. The Income Tax Officer, Ward-1, Nellore.
3. The Pr.CIT, Tirupati.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD