

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE “A” BENCH, BANGALORE**

**Before Shri Waseem Ahmed, Accountant Member
and
Shri Prakash Chand Yadav, Judicial Member**

ITA No. 1098/Bang/2024 (Assessment Year: 2017-18)		
Muroor Ramesh Nayak 1/1, Muroor Beejathadka Mandekolu, Sullia TQ. 574256 PAN – AJJPN9644H	vs.	The Income Tax Officer Ward - 1, Puttur
(Appellant)		(Respondent)
Assessee by:	Shri Srinivasa Kamath S., CA	
Revenue by:	Shri Ganesh R. Gale, Standing Counsel	
Date of hearing:	01.07.2024	
Date of pronouncement:	02.07.2024	

ORDER

Per: Prakash Chand Yadav, J.M.

This appeal filed by the assessee challenges the DIN & order No. ITBA/NFAC/S/2004-25/1064225940(1) of the National Faceless Appeal Centre, Delhi (CIT(A)) dated 19.04.2024 passed under Section 250 of the Income Tax Act, 1961 (the Act) in respect of Assessment Year (AY) 2017-18.

2. The brief fact of the case that that the assessee, an individual, prior to his retirement, was an employee of Forest Department. The assessee filed his return of income for the impugned year on 31.03.2018 declaring an income of Rs.2,88,170/-. The case of the assessee was selected for limited scrutiny in order to verify the source of cash deposited during the demonetisation period.

3. During the assessment proceedings the assessee while attending the proceedings, filed a written reply explaining the source of cash deposits. However, the Assessing Officer (AO) did not agree with the replies of the assessee and added an amount of Rs.11,00,000/- to the returned income.

4. Aggrieved with the order of the AO, the assessee filed appeal before the Id. CIT(A). The Id. CIT(A), after issuing number of notices to the assessee dismissed the appeal of the assessee for want of prosecution.

5. Now the assessee has come up in appeal before us. Ld. Counsel of the assessee, in order to explain the reason for non-appearance before the CIT(A), drew the attention of the Bench towards the email ID mentioned in Form 35 for the issuance of notices. He contended that there were two email IDs in Form 35, one mail ID, linked with PAN of assessee has been picked up automatically by the system and another was mentioned by the assessee, manually in the last column of Form 35. He argued that the Id. CIT(A) has issued the notices at the mail ID picked by the system instead of the mail Id specifically mentioned in last column for the service of notices of hearing.

6. The learned D.R. relied upon the orders of the authorities below.

7. After considering the rival submissions, we find that though the Id. CIT(A) has mentioned that he has issued around 11 notices to the assessee. However the Ld CIT(A) has failed to pin point as to whether any notice, has actually been served upon the assessee via that mail id mentioned in last column of Form 35. Further the CIT (A) has ignored the provisions of s. 250(6) of the Act. Which provisions, mandate that the Id. CIT (A), while disposing of an appeal, shall state in writing the points for determination, the decision thereon and the reasons for the decision. Further, it is settled position of law that the powers of the Id. CIT(A) are co-terminus with that of the AO. In this case the CIT(A) has just dismissed the appeal of the Assessee ignoring the mandate of section 250(6) of the Act. Therefore, in our opinion, the Id. CIT(A) ought to have decide the appeal of the assessee on merits instead of simply dismissing the appeal ex-parte. Hence, in the interest of justice, we restore this matter to the file of the Id. CIT (A) for deciding a fresh to deal the case on merits in accordance with law. Needless to say that the Id. CIT (A), while deciding the appeal of the assessee, would grant meaningful opportunity to the assessee before passing any order.

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

Order pronounced in the open Court on 2nd July, 2024.

Sd/-
(Waseem Ahmed)
Accountant Member

Sd/-
(Prakash Chand Yadav)
Judicial Member

Bengaluru, Dated: 2nd July, 2024
n.p.

Copy to:

- 1. The Appellant*
- 2. The Respondent*
- 3. The CIT, concerned*
- 4. The DR, ITAT, Bangalore*
- 5. Guard File*

By Order

//True Copy//

*Assistant Registrar
ITAT, Bangalore*