

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

Before Shri Manjunatha, G. Accountant Member and
Shri K. Narasimha Chary, Judicial Member

आ.अपी.सं / **ITA No.341/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2016-17)

Income Tax Officer Ward 6(1) Hyderabad (Appellant)	Vs.	Dhanishtaa Enterprises Hyderabad PAN:AALFD5494L (Respondent)
निर्धारिती द्वारा / Assessee by:	N O N E	
राजस्व द्वारा / Revenue by:	Shri Kumar Pranav, CIT(DR)	
सुनवाई की तारीख / Date of hearing:	03/07/2024	
घोषणा की तारीख / Pronouncement:	03/07/2024	

आदेश/ORDER

Per Manjunatha, G. A.M

This appeal filed by the Revenue is directed against the order dated 21/02/2024 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2016-17. None appeared on behalf of the assessee.

2. Facts of the case, in brief, are that the assessee firm has made huge cash credits to the tune of Rs.13,56,46,500/- in its bank account during the F.Y. 2015-16 relevant to the A.Y. 2016-17 and has failed to furnish the Return of Income for the

A.Y. 2016-17. As the assessee failed to explain and prove the sources of such huge cash credits, assessment proceedings was initiated u/s 147 of the Income tax Act, 1961 after recording satisfaction of assessing officer and obtaining necessary sanction from the competent authority. Notices u/s.148 and 142(1) were issued to which the assessee has not filed the return of income for the year under assessment. Thus, considering the facts that the assessee firm is unable to prove the sources of the credits of Rs. 13,56,46,500/-, provisions of Section 69A of the Act are clearly attracted and in absence of proper documentary evidences from the assessee firm, the credits of Rs. 13,56,46,500/- remains unexplained. Thus, the Assessing Officer proceeded to complete assessment on the basis of best judgement u/s 144 of the I.T. Act, 1961 and the total credits to the tune of Rs. 13,56,46,500/- is assessed u/s 69A of the Act and taxed at the special rate as specified u/s 115 BBE of the Act.

3. Before the learned CIT (A), the assessee did not appear and produced any details, but filed detailed written submission. The learned CIT (A) after considering the written submission, deleted the addition on the ground that nowhere the alleged bank account details of the assessee firm are mentioned and the assessee submitted in its submission that the firm was dormant during the relevant A.Y and has also submitted the copy of partnership deed registered with the Registrar of Firm, Hyderabad (South).

4. Aggrieved with such order of the learned CIT (A) the Revenue is in appeal before the Tribunal.

7. The learned DR supporting the order of the Assessing Officer submitted that the learned CIT (A) erred in not appreciating the fact that the assessee has not responded to the statutory notices issued by the Assessing Officer during the course of assessment proceedings. Moreover, the evidences furnished by the assessee before the learned CIT (A) were not filed before the Assessing Officer and without giving an opportunity of being heard to the Assessing Officer, the learned CIT (A) allowed the appeal of the assessee. Hence, to verify the additional evidences filed by the assessee, the matter needs to go back to the file of the Assessing Officer.

8. None appeared for the assessee. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. Admittedly, the assessee neither appeared before the Assessing Officer nor filed any returns which is evident from the ex-parte assessment order passed by the Assessing Officer. Although, the learned CIT (A) claims that the assessee has filed all evidences to justify his finding with regard to the explanation for source of cash deposits in the Bank Account, but those evidences were not at all filed before the Assessing Officer. Further, as per Rule 46A of IT Rules, 1962, in case of any additional evidences filed by the assessee,

then the said additional evidences needs to be forwarded to the Assessing Officer and obtain a remand report. In the present case, the learned CIT (A) neither obtained remand report on the additional evidences filed by the assessee nor given an opportunity to the Assessing Officer to make his statement on additional evidences filed by the assessee contrary to the settled principles of law. Therefore, we are of the considered view that the order passed by the learned CIT (A) allowing relief to the assessee without providing an opportunity to the Assessing Officer is against the principles of natural justice and cannot be upheld. Thus, we set aside the order passed by the learned CIT (A) and restore the issue back to the file of the Assessing Officer and direct the Assessing Officer to re-examine the case of the assessee in light of evidences filed by the assessee before the learned CIT (A) and decide the issue in accordance with law.

9. In the result, appeal filed by the Revenue is allowed for statistical purposes.

Order pronounced in the Open Court on 3rd July, 2024.

Sd/- (K. NARASIMHA CHARY) JUDICIAL MEMBER	Sd/- (MANJUNATHA, G.) ACCOUNTANT MEMBER
---	---

Hyderabad, dated 3rd July, 2024

Vinodan/sps

Copy to:

S.No	Addresses
1	Income Tax Officer Ward 6(1) Room No.623,6 th Floor, B Block IT Towers, AC Guards, Masab Tank, Hyderabad 500004
2	Dhanishtaa Enterprises, 8-3-32-/E/507 K Keerthi Apartments, Sai Sarathi Nagar, Yellareddyguda, Hyderabad 500016 Telangana
3	Pr. CIT – Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order