

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.445/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2017-18)

Shri Pratap Reddy Khambham KADAPA PAN:CBOPK0780L	Vs.	Income Tax Officer Ward-1 KADAPA
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:		Advocate S Sandhya
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 assessee is directed against the order dated 29/02/2024 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2017-18.

2. Facts of the case, in brief, are that the assessee is an individual and has not filed his return of income for A.Y. 2017-18. As per Information available in Insight portal, the Assessing

Officer observed that the assessee has deposited cash of Rs. 1,15,60,120/- in his current account and has also withdrawn cash from the same current account for an amount of Rs. 17,08,000/-, during the F.Y. 2016-17 relevant to A.Y. 2017-18. As the assessee has not filed ITR for the relevant assessment year, there was a reason to believe that the income to the extent of Rs. 13,268,120/- has escaped assessment and hence the assessment proceedings u/s 147 of the IT Act were initiated after recording the reasons for re-opening and a notice u/s 148 of the IT Act dated 24/03/2021 was issued and served upon the assessee with prior approval of Jt. CIT, Nellore Range. The assessee vide notice u/s 148 was asked to file a return of income within 30 days. In response the assessee has filed return of income on 26.04.2021 and has declared a total turnover of Rs.64,90,400/- and has calculated a gross total income as per the provisions of section 44AD @ 8% of turnover amounting to Rs. 5,19,232/-. Further, the assessee has also claimed deduction under chapter VIA and accordingly declared a total income chargeable to tax at Rs. 3,24,230/-.

3. The Assessing Officer, thereafter, issued statutory notices u/s 142(1) of the IT Act dated 03/12/2021 and 14/02/2022 and served upon the assessee along with detailed questionnaire asking the assessee to submit various details, explanation and documentary evidence substantiating the cash deposits in his bank account. Since, the assessee has not offered

any explanation or documentary evidences with regards to the Cash deposits in his bank account and cash withdrawals, the Assessing Officer completed the assesment proceedings ex-parte u/s 144 of the IT Act on the basis of material available on records.

4. In appeal, the learned CIT (A) dismissed the appeal on the ground of non-appearance of the assessee and non-furnishing of details/documentary evidences in support of deposit of cash Rs. 1,15,60,120/- in the Bank Account.

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

6. The learned Counsel for the assessee submitted that learned CIT (A) ought to have seen that the assessee filed his return of income admitting income under the provisions of Sec.44AD of the I.T. Act and therefore, the Assessing officer is also not justified in making the addition u/s 69A of the I.T. Act. Hence she prayed for giving an opportunity to the assessee either before the Assessing Officer or the learned CIT (A) to substantiate its claim by furnishing necessary details/evidences.

7. The learned DR, on the other hand, supporting the orders of the authorities below submitted that the assessee has neither appeared nor complied with the statutory notices issued

by the authorities. Hence, the orders of the Assessing Officer and the learned CIT (A) be upheld and the grounds raised by the assessee should be dismissed.

8. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. We find that the assessee has neither appeared nor furnished details/evidences before the Assessing Officer or the learned CIT (A) despite issuance of several notices. It is the submission of the learned Counsel for the assessee, given an opportunity, the assessee would be in a position to submit all the necessary details/evidences before the Assessing Officer. Considering the totality of the facts and circumstances of the case, we set aside the issue to the file of the Assessing Officer with a direction to grant an opportunity of being heard to the assessee to furnish necessary details/evidences. The assessee is shereby directed to appear before the Assessing Officer on the appointed date and time and present all the requisite details/evidences without seeking any adjournment under any pretext. Looking to the non-compliance of the assessee before the Assessing Officer and the learned CIT (A), we levy a charge of Rs.5000/- on the assessee and the assessee is directed to pay Rs.5000/- at the Telangana State Legal Aid Authorities at the Hon'ble Telangana High Court within one month from the date of this order and necessary payment slip should be submitted to the Registry accordingly. We hold and direct accordingly.

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

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

Sd/-

Sd/-

(K. NARASIMHA CHARY) JUDICIAL MEMBER	(MANJUNATHA, G.) ACCOUNTANT MEMBER
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Hyderabad, dated 3rd July, 2024

Vinodan/sps

Copy to:

S.No	Addresses
1	Shri Pratap Reddy Khambham, No.20/325-5, DC Road M/s. Pratap Paints, Kadapa 516001 A.P
2	Income Tax Officer, Ward -1 Kadapa, A.P
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order

1.	Draft dictated on	3 rd July, 2024	
2.	Draft placed before author	3 rd July, 2024	
3.	Approved Draft comes to the Sr.P.S./PS	3 rd July, 2024	
4.	Kept for pronouncement on	3 rd July, 2024	
5.	File sent to the Bench Clerk	3 rd July, 2024	
6.	Date on which file goes to the Head Clerk	3 rd July, 2024	
7.	Date of Dispatch of order	July, 2024	