

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

Lakshmieshwari Devi Potlapadu KURNOOL PAN:AHKPP4795Q	Vs.	Income Tax Officer Ward 1 Kurnool
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by: Shri K.C. Devdas, CA		
राजस्व द्वारा / Revenue by: Shri CH Rajeswara Reddy, DR		
सुनवाई की तारीख / Date of hearing: 02/07/2024		
घोषणा की तारीख / Pronouncement: 02/07/2024		

आदेश/ORDER

Per Manjunatha, G. A.M

This appeal filed by the assessee is directed against the order dated 13/02/2024 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2017-18.

2. The assessee has raised the following grounds:

1. The order of the Hon'ble CIT (A) is erroneous in law as well as facts of the case.
2. The Hon'ble CIT (A) ought to have observed that the Assessing Officer erred in adding back the sundry creditors for Rs.45,18,478/- by invoking the provisions of section 68 of the IT Act without appreciating the facts properly and judiciously proceeded to complete the assessment u/s.144 of the IT Act and hence the same is liable to be deleted.
3. The Hon'ble CIT (A) without allowing proper opportunity proceeded to complete the assessment ex-parte and therefore the same is not valid in the eyes of law.
4. The Hon'ble CIT (A) ought to have observed that the Assessing Officer erred in adding back the unsecured loan creditors for Rs. 10,00,000/- by invoking the provisions of section 68 of the IT Act without considering the facts and circumstances and the same is liable to be deleted.
5. Without prejudice to the above grounds, the Hon'ble CIT (A) ought not to have arrived at the conclusion that there were unexplained credits in the books of accounts without brining any material on record and hence the additions are liable to be deleted.
6. The Hon'ble CIT(A) ought to have observed that the Assessing Officer erred in making an addition of Rs. 44,531/- on account of difference in valuation of the closing stock which is not acceptable as the same is done without any material on record and the addition is liable to be deleted.
7. Any other ground will be raised at the time of hearing.

3. Facts of the case, in brief, are that the assessee individual is running the business of seed processing and sales unit under the name of M/s. Bileswara Seeds for the A.Y 2017-18,

e-filed her return of income on 13.11.2017 declaring total income at Rs.5,13,380/-. The case was selected for complete Scrutiny assessment through CASS for the financial year 2018-19. Accordingly, statutory notices u/s 143(2) and 142(1) of the I.T. Act, 1961 were issued and served on the assessee through e-proceedings module of e-filing portal and also manually calling for information and evidences on specific issues including the issue of sundry creditors and unsecured loans from others as on 31.03.2017 amounting to Rs.45,18,478/- and Rs.10,00,000/- respectively. In response to the notices, the assessee furnished the certain details but not submitted any documentary evidence in support of her claim. Finally, the Assessing Officer completed the assessment ex-parte and made a demand of Rs.60,76,389/-.

3. Feeling aggrieved, the assessee preferred an appeal before the learned CIT (A). Before the learned CIT (A), the assessee neither appeared nor filed any documentary evidences in support of her claim. Thus, the learned CIT (A) upheld the assessment order passed by the Assessing Officer.

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

7. The learned Counsel for the assessee submitted that given an opportunity, the assessee would be in a position to produce documentary evidence before either of the lower authorities.

8. The learned DR, on the other hand, supporting the orders of the authorities below submitted that despite issuance of statutory notices by the Assessing Officer as well as the learned CIT (A), the assessee failed to comply with the same. Hence, the grounds of appeal raised by the assessee should be dismissed and the order of the learned CIT (A) should be upheld.

8. We have heard both the parties, and considered the relevant assessment order passed by the learned CIT (A). We find that the assessment order passed by the Assessing Officer is ex-parte u/s 144 of the I.T. Act, 1961 for non-appearance of the assessee. The learned CIT (A) had also passed ex-parte appellate order and decided the appeal on technical ground for non-prosecution by following the decision of the Hon'ble Supreme Court in the case of CIT vs. BN Bhattacharya (1997) 118 ITR 461 (S.C). It is well established principles of law that even in the case of disposal of appeal in absence of appellant, the appeal should be decided on merit on the basis of material available on record. In the present case, the learned CIT (A) has dismissed the appeal filed by the assessee on technical ground, however, not discussed the issue involved in the appeal on merit contrary to settled law. Further, although the appellant has not submitted any details in response to the notices issued by the learned CIT (A), but in all the occasions adjournment was sought by filing a letter. From the above, it is very clear that the learned CIT (A) has decided the

appeal ex-parte even though the appellant has sought adjournment and also not discussed the issues on merit. Therefore, we are of the considered view that the issue needs to go back to the file of the learned CIT (A) to give one more opportunity of hearing to the assessee. Thus, we set aside the order of the learned CIT (A) and restore the issue back to the file of the learned CIT (A) for fresh adjudication after providing reasonable opportunity of hearing to the assessee. Needless to say, the assessee shall appear and file the necessary evidences as and when the case is posted for hearing without seeking any adjournment under any pretext.

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

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

Sd/-

Sd/-

(K. NARASIMHA CHARY) JUDICIAL MEMBER	(MANJUNATHA, G.) ACCOUNTANT MEMBER
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Hyderabad, dated 2nd July, 2024

Vinodan/sps

Copy to:

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1	Smt. Lakshmieshwari Devi Potlapadu, 45-203, A59, Venkataramana Colony, Kurnool, A.P 518004
2	Income Tax Officer Ward-1 Income Tax Office, OPP; Childrens Park Nerpet, Kurnool
3	Pr. CIT - Kurnool
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order