

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

**Before Shri Laliet Kumar, Judicial Member**  
**And**  
**Shri Manjunatha, G. Accountant Member**

आ.अपी.सं / **ITA No.462/Hyd/2024**  
(निर्धारण वर्ष / Assessment Year: 2017-18)

Shri Shaharyar Hyderabad PAN:FZYPS6340M (Appellant)	Vs.	Income Tax Officer Ward 14(1) Hyderabad (Respondent)
निर्धारिती द्वारा / Assessee by: Shri Mohd.Afzal, Advocate		
राजस्व द्वारा / Revenue by: Shri Shakeer Ahmed, DR		
सुनवाई की तारीख / Date of hearing: 10/07/2024		
घोषणा की तारीख / Pronouncement: 10/07/2024		

**आदेश/ORDER**

**Per Laliet Kumar, J.M**

This appeal filed by the assessee is directed against the order dated 07/03/2024 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 senior citizen deriving income from pension and there is no other source of income. The assessee has made cash deposits received from sale of property of his son which was executed on 20.10.2016. The assessee had gifted the property to

his son by executing gift deed on 26.09.2016. The assessee did not receive any notice since the notices were sent on old address of the assessee where he was residing earlier and it is only after bank attachment of the assessee, the assessee came to know of income tax demand recovery and thereafter received notices from the authorities on 18.02.2020. The assessee has no knowledge of computer operations and hence could not check and reply to the notices sent through e-mail by the Department. The Assessing Officer made addition of Rs.3,51,975/- and cash deposits from sale of property of Rs.10,43,727/- and treated the same as unexplained money u/s 69A r.w.s. 115BBE of the I.T. Act, 1961.

3. The learned AR for the assessee submitted that the learned CIT (A) has decided the appeal against the assessee and while doing so, the request of the assessee to file some additional documents which shows the availability of cash with the assessee was not decided. It was submitted that the son of the assessee had sold the property and the cash was received by the son which was deposited into the bank account of the assessee without assessee's knowledge. It was submitted that the assessee was able to show the availability of cash, however, since the documents have not been admitted by the learned CIT (A), the learned CIT (A) has dismissed the appeal of the assessee. The learned AR submitted that given a chance, the assessee would be able to demonstrate the availability of cash from disclosed/admitted source. The assessee further prayed that the matter may be

remanded back to the file of the Assessing Officer for resh adjudication.

4. Per contra, the learned DR submitted that the assessee should be vigilant in prosecution of the case and should have filed the proper application for admission of the additional evidences/documents giving all cogent reasons as to why the assessee was not able to produce the documents before the Assessing Officer. It was submitted that the assessee was ex-parte before the Assessing Officer, which clearly shows the callous attitude of the assessee. Hence the orders of the lower authorities should be upheld and the appeal of the assessee be dismissed.

5. We have heard the rival arguments and perused the material available on record. Undoubtedly, the assessee has failed to appear before the Assessing Officer and the Assessing Officer was left with no option but to pass ex-parte assessment order in the case of the assessee. On appeal, the assessee requested for admission of the additional evidences, albiet without any application and as such, the learned CIT (A) has left with no option but decided the issue in accordance with law without admitting additional evidences. Now since the assessee has submitted before us the application for admission of the additional documents and also prays that the matter may kindly be remanded back to the file of the Assessing Officer. Considering the totality of the facts, we deem it proper to remand the matter to the file of the Assessing Officer with a direction to pass fresh

assessment order. Needless to say, while doing so, the Assessing Officer shall abide by the principle of natural justice and grant sufficient opportunity of being heard to the assessee including producing the requisite documents/ evidences to prove his case. However, this is subject to a cost of Rs.3000/- which may be deposited by the assessee with the Telangana State Legal Aid Authorities at the Hon'ble Telangana High Court within a period of one month from the date of this order and necessary payment slip should be submitted with the Registry. We hold and direct accordingly.

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

Order pronounced in the Open Court at the time of hearing itself, i.e. on 10<sup>th</sup> July, 2024.

Sd/-

Sd/-

<b>(MANJUNATHA, G.) ACCOUNTANT MEMBER</b>	<b>(LALIET KUMAR) JUDICIAL MEMBER</b>
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Hyderabad, dated 10<sup>th</sup> July, 2024

***Vinodan/sps***

Copy to:

S.No	Addresses
1	Shri Shaharyar, 6-3-26/6/A Prem Nagar, Khairatabad, Hyderabad 500004
2	Income Tax Officer Ward 14(1) IT Towers, Masab Tank, Hyderabad
3	Pr. CIT – Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*