

**IN THE INCOME TAX APPELLATE TRIBUNAL
BENGALURU “B” BENCH, BENGALURU**

**Before Shri Laxmi Prasad Sahu, Accountant Member
and
Shri Keshav Dubey, Judicial Member**

ITA No. 944/Bang/2024 (Assessment Year: 2017-18)		
Manchaiah Shivalingaiah No. 365/ss, 1st Main, 2nd Cross 3rd Phase, Manjunath Nagar Rajajinagar, Bengaluru 560010 PAN – BOSPS6014P (Appellant)	vs.	The Income Tax Officer Ward - 1(2)(5) BMTC Building, 80 Ft. Road Koramangala Bengaluru 560095 (Respondent)
Assessee by: Shri Likith Patel, M.K., Advocate		
Revenue by: Shri Ganesh R. Gahle, Standing Counsel		
Date of hearing:	19.05.2024	
Date of pronouncement:	11.07.2024	

ORDER

Per: Keshav Dubey, J.M.

This appeal at the instance of the assessee is directed against the order of the National Faceless Appeal Centre, Delhi / CIT(A) vide DIN & Order No. ITBA/NFAC/S/250/2023-24/1062552904(1) dated 13.03.2024 passed under Section 250 of the Income Tax Act, 1961 (the Act) for Assessment Year (AY) 2017-18.

2. The assessee has raised the following grounds of appeal: -

- “1. *On the fact and circumstances of the case, the learned CIT(A) erred in upholding the order of the Assessing Officer, in the manner in which he did.*
2. *On the facts and circumstances of the case, the learned CIT(A) erred in providing sufficient opportunity to the Appellant to put forth the submissions of the Appellant.*

3. *On the facts and circumstances of the case, the learned CIT(A) erred in upholding the addition of Rs. 13,99,500/- as unexplained money u/s 69(A) of the Act.*
4. *On the facts and circumstances of the case, the learned CIT(A) failed to appreciate that the notice of hearing had not received by the Appellant and during that period the appellant had undergone on eye surgery due to which he was not in a position to look into the hearing notices if sent by the CIT(A) to the Appellant.*
5. *For these and such other grounds that may be raised at the time of hearing. The Appellant prays that the appeal may please be allowed to meet the ends of justice.”*

3. The brief facts of the case are that the assessee being a retired employee of the Bangalore Electricity Supply Company Ltd. is drawing pension from the same. Further, the learned A.R. of the assessee submitted that apart from pension the assessee has some rental income as well as interest on deposit. The assessee filed his return of income for AY 2017-18 declaring total income of Rs. 4,08,560/-. The said return was selected for limited scrutiny under CASS for examination of the cash deposited during the demonetization period. Notices under Section 143(2) as well as 142(1) of the Act were issued. However, there is no response from the assessee in spite of ample opportunities were granted to the assessee to substantiate the source of cash deposited during the demonetization period amounting to Rs.13,99,500/-. The Assessing Officer (AO), by applying the provisions of s. 69A of the Act, added the entire cash deposited in the bank account during the demonetization period from 09.11.2016 to 30.12.2016 to the total income of the assessee as unexplained money and completed the assessment proceedings electronically under Section 144 of the Act under e-proceedings. Aggrieved, the assessee preferred appeal before the CIT(A).

4. Even before the learned CIT(A), although various notices issued under Section 250 of the Act, the assessee did not make any submission in spite of availing sufficient time and opportunities and accordingly the learned CIT(A)

also was of the view that the assessee is not keen to pursue the appeal as per law and accordingly the appeal filed by the assessee was dismissed for non-prosecution by the assessee. Aggrieved, the assessee is in appeal before the Tribunal.

5. At the time of hearing both the parties fairly conceded that the assessment order as well as the order of the CIT(A) is ex-parte without giving opportunity of hearing to the assessee. The AR of the assessee vehemently submitted that the assessee is a senior citizen & retired employee of Bangalore Electricity Supply Company Limited. The Assessee had undergone Eye surgery due to which he was not in a position to look into the appeal hearing notices & prayed that one more opportunity may be granted. Being so, we are of the opinion that in the interest of justice and fair play, we remit the entire issue in dispute to the file of the AO for fresh consideration and to decide the issue in accordance with law after giving opportunity of hearing to the assessee. The assessee is directed to cooperate with the proceedings before the Revenue authorities and to file the relevant submissions/documents which would be essential and required by the Revenue authorities for proper adjudication of the case. We clarify that in case of further default the assessee shall not be entitled for any leniency.

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

Order pronounced in the open Court on 11th July, 2024.

Sd/-
(Laxmi Prasad Sahu)
Accountant Member

Sd/-
(Keshav Dubey)
Judicial Member

Bengaluru, Dated: 11th July, 2024
n.p.

Copy to:

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

By Order

//True Copy//

*Assistant Registrar
ITAT, Bengaluru*