

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE “A” BENCH, BANGALORE**

**Before Shri Waseem Ahmed, Accountant Member
&
Shri Keshav Dubey, Judicial Member**

ITA No.1149/Bang/2024: Asst.Year : 2017-2018

Sri.Thyagaraju Viswanath No.6, Shanthavarri, Green Garden III, K Channasandra Horamavu Bangalore – 560 043. PAN: ADKPV3464A	vs.	The Income Tax Officer Ward 1(2)(4 Bangalore.
(Appellant)		(Respondent)

Appellant by: Ms.Lakshmi S., Advocate
Respondent by: Sri.Ganesh R.Gale, Standing Counsel

Date of Hearing : 11.07.2024	Date of Pronouncement: 16.07.2024
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ORDER

Per Keshav Dubey, JM :

This appeal at the instance of the assessee is directed against the order of National Faceless Appeal Centre, Delhi /CIT(A) dated 29.02.2024 vide DIN & order No. ITBA/NFAC/S/250/2003-24/1061767308(1) passed u/s.250 of the Income-tax Act, 1961 (“the Act”) for Assessment Year (AY) 2017-18.

2. The assessee has raised the following grounds:-

“The order of the learned Commissioner of Income-tax(Appeals) is opposed to law, weight of evidence, probabilities, settled positions in law, and the facts and circumstances of the Appellant's case.

2. The learned Commissioner of Income-tax (Appeals) erred in upholding the assessment order passed by the assessing officer insofar as the jurisdiction has not been assumed in accordance with law on the facts and circumstances of the case.

3. *The learned Commissioner of Income-tax (Appeals) erred in passing the order without giving sufficient opportunity of being heard thus violating the principles of natural justice rendering the order liable to be cancelled on the facts and circumstances of the case.*

4. *The Appellant denies itself liable to be assessed to tax on a total income of Rs. 16,30,990/- as against the declared total income of Rs. 3,86,250/- on the facts and circumstances of the case.*

5. *The learned Commissioner of Income-tax (Appeals) is not justified in upholding addition made by the Assessing Officer under section 69A of Rs. 12,44,740/- on the facts and circumstances of the case.*

6. *The order of assessment is bad in law for want of requisite jurisdiction on the facts and circumstances of the case.*

7. *The learned Commissioner of Income-tax (Appeals) is not justified in upholding of the invocation of the rigorous provisions of section 69A of the act made by the AO on the facts and circumstances of the case.*

8. *The learned Commissioner of Income-tax (Appeals) erred in upholding the fact that the AO has failed to appreciate that the provisions of section 69A are inapplicable on the facts and circumstances of the case.*

9. *The learned Commissioner of Income-tax (Appeals) erred in upholding the fact that the AO has failed to appreciate that the provisions of section 115BBE are inapplicable on the facts and circumstances of the case.*

10. *The learned Commissioner of Income-tax (Appeals) erred in upholding and confirming the initiation of the penalty proceedings under section 271AAC by the assessing officer on the facts and circumstances of the case.*

11. *The learned Commissioner of Income-tax (Appeals) erred in upholding the computation sheet which is incorrect and riddled with mistakes and reflects manifest non-application of mind, and consequently the notice of demand is unsustainable in law on the facts and circumstances of the case.*

12. *The Appellant craves leave of this authority to add, alter, delete or substitute any or all of the above grounds as may be necessary at the time of hearing.*

13. Wherefore, the Appellant prays before this authority that the appeal may be allowed for the advancement of substantial cause of justice and equity.”

3. There was a delay of 43 days in filing the present appeal before this Tribunal. The assessee has filed a condonation petition stating that the appellant had not been served with the notices either physically or by email and was completely unaware of the order passed. Further the assessee was also not watching the Income-tax portal regularly & for this reason the assessment order as well as the order of the NFAC were ex parte and accordingly prayed for condoning the delay in filing the Appeal by 43 days.

3. We have heard rival submissions and perused the material available on record. There was a delay of 43 days in filing the appeal before this Tribunal. We find that there is good and sufficient reason for filing the appeal belatedly by 43 days and accordingly in the interest of justice the delay is condoned and the appeal is admitted for adjudication.

4. Before us, the learned AR of the assessee vehemently submitted that the authorities below erred in passing the order without giving sufficient opportunity of being heard which is clear violation of principles of natural justice. Further, the AR of the assessee submitted that the Assessing Officer had not followed the mandatory CBDT Circular in respect of demonetization issues while passing the Assessment Order and requested to remand back the issue to the file of AO for fresh consideration. The AR of the assessee also given an assurance to appear before the AO and produce necessary documents / information in support of the claim of the assessee.

5. Considering the submissions of the learned AR and in the interest of justice and fair play, we remit the issue to the files of the AO for fresh consideration and decide as per law. The assessee is directed to update his correct email id, mobile number and communication address in the Income-tax Portal and also intimate the same to the Revenue authorities. The assessee is directed to produce all the relevant documents / information in support of his claims and not to seek unnecessary adjournment of the case. We clarify that in case of any further default, the assessee shall not be entitled for any leniency.

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

Order pronounced in the open court on 16th July, 2024.

Sd/-
(Waseem Ahmed)
Accountant Member

Sd/-
(Keshav Dubey)
Judicial Member

Bangalore; Dated: 16th July, 2024
Devadas G*

Copy to:

1. The Appellant.
2. The Respondent.
3. The CIT(A) Concerned.
4. The DCIT concerned.
5. The Sr. DR, ITAT, Bangalore.
6. Guard File.

Asst.Registrar
ITAT, Bangalore