

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD**

**BEFORE
SHRI MANJUNATHA G., ACCOUNTANT MEMBER
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER**

आ.अपी.सं / ITA No. 221/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2018-19)

Venkatesatyanarayana Asst. Commissioner
Chowdary Yalamanchili, Vs. of Income Tax,
Hyderabad Circle-6(1),
[PAN : AAIPY8466E] Hyderabad

अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Advocate S.K. Gupta
राजस्व द्वारा/Revenue by: Shri CH Rajeswara Reddy, DR

सुनवाई की तारीख/Date of hearing: 04/07/2024
घोषणा की तारीख/Pronouncement on:18/07/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 30/01/2024 passed by the learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Venkatasatyanarayana Chowdary Yalamanchili ("the assessee") for the assessment year 2018-19, the assessee preferred this appeal.

2. Assessee is an individual and proprietor of a cinema theatre. He filed his return of income for the assessment year 2018-19 on 5/10/2018 declaring an income of ₹ 2, 76, 580/-. While processing the return under section 143(1) of the Income Tax Act, 1961 (for short "the Act"), CPC Bangalore made disallowance of ₹ 1, 08, 50, 577/- under section 40A(3) of the Act and another sum of ₹ 11, 13, 507/- under section 43B of the act.

3. Assessee preferred appeal. Based on the audit report learned CIT(A) held that the CPC rightly disallowed under section 40A(3) of the Act. He further held that the disallowance under 43 B of the Act is also consistent with the facts on record.

4. Ld. AR submits that the authorities have taken only a part of the audit report to be found at column 21 (d) only in part and failed to notice the latter part by the auditors have certified that according to the test checks of the cash book and the cheque, record slips etc., as a reasonable, considering the size of the form, there has been no Revenue payments in cash which are inadmissible under section 40 A (3), 40 A (3A) read with rule 6 DD. He submits that the disclaimer is only a formality and nothing prevented the authorities from verifying the books of the assessee. In respect of the other disallowance Ld. AR submits that the assessee submitted before the learned CIT(A) that the amounts representing the GST was paid before the due date in respect of the months from August, 2007 to December, 2007 but it is only in respect of the payments towards the months of January to March, 2018 that were delayed.

5. Ld. DR placing heavy reliance on the orders of the authorities below.

6. We have gone through the record in the light of the submissions made on either side. Whether or not there are any Revenue payments in cash, de hors the disclaimer clause is a verifiable fact and merely because the auditors put a disclaimer clause it does not prevent the verification of books to know whether or not there are any cash payments. Merely

because there is a disclaimer no addition could be made without proper verification of the books. So also, the payments towards GST as pleaded by the assessee before us. We, therefore, find it just and proper to set aside the impugned order and restored the issue to the file of the learned Assessing Officer to cause enquiry on this verifiable facts and to take a plausible view according to law. With this view of the matter, we set aside the impugned order and direct the learned Assessing Officer to verify the books and reach a conclusion according to law on this two aspects. Grounds are accordingly treated as allowed for statistical purpose.

7. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on this day the 18th July, 2024.

Sd/-
(MANJUNATHA G.)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 18/07/2024
Pvv/SPS

Copy forwarded to:

1. Venkatasatyanarayana Chowdary Yalamanchili D.No.8-2-293/k/58, Plot No.58, Phase III Kamalapur Colony, Hyderabad 500073, Telangana Hyderabad.
2. Asst. Commissioner of Income Tax, Circle-6(1), Hyderabad.
3. Pr.CIT , Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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