

**IN THE INCOME TAX APPELLATE TRIBUNAL
BENGALURU “SMC-C” BENCH, BENGALURU**

**Before Shri Chandra Poojari, Accountant Member
and
Shri Keshav Dubey, Judicial Member**

ITA No. 721/Bang/2024 (Assessment Year: 2017-2018)		
Shri Lakshmi Pattina Sahakara Sangha Niyamitha Near Renuka Mandira Temple Harihar – 577 601. PAN – AAPAS0548F	vs.	The Income Tax Officer Ward 1 Devangere.
(Appellant)		(Respondent)
Assessee by:	Sri.Sandeep Chalapathy, CA	
Revenue by:	Shri Ganesh R. Gale, Standing Counsel	
Date of hearing:	13.06.2024	
Date of pronouncement:	22.07.2024	

ORDER

Per: Keshav Dubey, J.M.

This appeal at the instance of the assessee is directed against the order vide DIN & Order No. ITBA/ NFAC/S/ 250/2022-23/ 1044443368(1) dated 03.08.2022 of the National Faceless Appeal Centre, Delhi (CIT(A)) under Section 250 of the Income Tax Act, 1961 (the Act) for Assessment Year (AY) 2017-2018.

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

“1. That the order of the Commissioner of Income Tax (Appeals) in so far it is prejudicial to the interests of the appellant is bad and erroneous in law and against the facts and circumstances of the case.

2. That the Commissioner of Income Tax (Appeals) erred in law and on facts in deciding the appeal ex-parte without providing a

proper opportunity of being heard by sending the appeal hearing communication manually as part of principles of natural justice.

3. That the Commissioner of Income Tax (Appeals) ought to have considered the fact that the entire appeal faceless scheme is newly introduced and not all the assesseees are well aware of it and can acknowledge the hearing notices sent through emails.

4. That the learned Commissioner of Income Tax (Appeals) erred in law and on facts in adding a sum of Rs.5,01,500/- as unexplained cash credits u/s 68 of the Act even though the source of such cash was explained with supporting evidences.

5. That the learned Commissioner of Income Tax (Appeals) erred in law and on facts in holding that the appellant cannot transact in Specified Bank Notes after 09.11.2016.

6. The learned Commissioner of Income Tax (Appeals) erred in law and on facts in levying surcharge u/s 115BBE of the Act for the transaction made before 15.12.2016.

Each of the above grounds is without prejudice to one another and the appellant craves leave of the Hon'ble Income Tax Appellate Tribunal, Bangalore to add, delete, amend or otherwise modify one or more of the above grounds either before or at the time of hearing of this appeal.”

3. There was a delay of 565 days in filing the present appeal before this Tribunal. The assessee has filed an application seeking condonation of delay stating that Mr. Sandeep G. finance Head of the Appellant Co-operative Society was not aware of the fact that the order was passed by the Id. CIT(A) since the same was categorized as spam in the email. Only after receiving the call from the Income Tax Department regarding the recovery of demand during the last week of March 2024, the appellant approached the consultant to file the appeal and accordingly the appeal is filed on 19.04.2024 with the delay of 565 days. Further, an Affidavit of the Finance Head Mr.Sandeep G is also filed narrating the above facts. Accordingly the AR of the assessee prayed

for condoning the delay in filing the appeal by 565 days in the interest of justice.

4. We have heard rival submissions and perused the material on record. There was a delay of 565 days in filing the present appeal before this Tribunal. We find that there is good and sufficient reason for filing this appeal belatedly by 565 days and accordingly in the interest of justice and fair play the delay is condoned and the appeal is admitted for adjudication.

5. Before us the Id. AR of the assessee vehemently submitted that the Id.CIT(A) erred in law and on facts in deciding the appeal *ex parte* without providing proper opportunity of being heard. Further, the AR of the assessee submitted that the entire appeal faceless scheme was newly introduced and not all the assesseees were well aware of the procedure of making submissions and accordingly prayed for remitting back the issues to the file of the Id.CIT(A) for deciding afresh.

6. The Id. DR on the other hand, supported the orders of the Income-tax authorities below and submitted that the appellant did not care to reply even to a single appeal notices inspite of several opportunities given by the Id.CIT(A). Further, the Id. DR submitted that the appellant has also not filed any reply/submission during the course of appellate proceedings which also suggests that the appellant does not have any explanation in this regard.

7. We have heard rival submissions and perused the material on record. As can be seen three numbers of notices were sent by the CIT(A) to the appellant, but the appellant did not reply even to a single notice. The Id.CIT(A) presuming that the appellant has nothing more to say in his support, passed an order dismissing the appeal. Being so, we are of the opinion that as the faceless appeal scheme was newly introduced and the assessee was not well acquainted with the procedure of submitting his reply, in the interest of justice

and fair play, we remit the issue in dispute to the file of the Id.CIT(A) to decide the issue in accordance with the law after giving an opportunity of being heard to the assessee. The assessee is directed to co-operate with the proceedings before the CIT(A)/NFAC and to file relevant submissions / documents, which would be essential and required for proper adjudication of the case. We also clarify that in case of further default, the assessee shall not be entitled for any leniency.

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

Order pronounced in the open Court on 22nd July, 2024.

Sd/-
(Chandra Poojari)
Accountant Member

Sd/-
(Keshav Dubey)
Judicial Member

Bengaluru, Dated: 22nd July, 2024
Devadas G*

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