

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. 374/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2017-18)

Laxmi Saraswathi Filling Station, Narketpally [PAN :AAEFL8124A] Vs. Income Tax Officer Ward 1 Nalgonda

अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri Satish Kumar, V. CA
राजस्व द्वारा/Revenue by: Smt. Sheetal Sarin, DR

सुनवाई की तारीख/Date of hearing: 10/07/2024
घोषणा की तारीख/Pronouncement on: 24/07/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 20/03/2024 passed by the learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Laxmi Saraswathi Filling Station("the assessee") for the assessment year 2017-18, the assessee preferred this appeal.

2. Assessee is a firm, engaged in the business of running a filling station during the year relevant to the assessment year 2017-18. Learned Assessing Officer found cash deposits to the tune of ₹ 91,17,900/- in the account No. 33145606206 with state bank of India, in which the total credits were to the tune of ₹ 12,63,12,921/-. Learned Assessing Officer added the entire cash deposits to the income of the assessee. So also, the learned Assessing Officer estimated the business income of the assessee at ₹ 93,75,602/- and made an addition to that effect. Apart from this learned Assessing Officer also added a sum of ₹ 13,45,711/- towards receipt of interest income under the head income from other sources. By order dated 6/12/2019 passed under section 144 of the Income Tax Act, 1961 (for short "the Act"), learned Assessing Officer determined the income of the assessee active 1,98,39,213/-.

3. Aggrieved assessee filed appeal before the learned CIT(A) challenging the additions. By way of impugned order learned CIT(A) dismissed the appeal holding that the assessee could not establish the source of cash deposits and the source of the entire credits in the undisclosed bank account, and the assessee failed to give cogent reasons for not filing the return of income. Hence this appeal has been filed by the assessee before us.

4. According to the assessee, subsequent to 14/2/2021 after the assessee submitting his plea before the learned CIT(A), for about 3 years it did not receive any communication but suddenly received a notice dated 26/2/2024 requiring him to submit the supporting documents. Assessee claims to have submitted that the bank statement relating to the SBI bank account No. 33145606206 was declared in the returns of income of one Mr. Bandyala Harish Reddy, who is the proprietor of the assessee in his PAN ALRB1617Q. Assessee also claims to have submitted the evidence in support of these contentions by filing the returns of income of the said Harish Reddy. Grievance of the assessee is that the learned CIT(A) without giving proper opportunity to the assessee of being heard and without

considering the various facts stated by the assessee and the material submitted by it, dismissed the appeal unjustly.

5. Learned AR prayed that having regard to the facts and circumstances of the case and in view of the specific plea taken by the assessee that all the business receipts were declared by the proprietor of the assessee by name Mr Bandyala Harish Reddy in his returns, no tax liability could be fastened on the assessee. Learned AR prayed that, if for any reason the Tribunal thinks it fit necessary to cause the verification of the facts pleaded by the assessee, the matter may be remanded to the file of the learned Assessing Officer because verification of the facts would be easier.

6. Per contra, learned DR vehemently opposed the plea taken by the assessee and submitted that the assessee failed to appear before the learned Assessing Officer resulting in the assessment order passed under section 144 of the Act. So also, the assessee failed to furnish all the relevant material before the learned CIT(A) and therefore, is not open for the assessee now to pray to send the issue back to the file of the learned Assessing Officer for verification of facts.

7. We have gone through the record in the light of the submissions made on either side. There is no denial of the fact that the assessee submitted a reply dated 14/2/2021 to the notice dated 30/1/2021 or that subsequently till 26/2/2024 no further communication was issued to the assessee. The statement across the bar that the assessee pleaded in the written submissions that one Bandyala Harish Reddy is the proprietor of the assessee and he declared the SBI account No. 33145606206 in his returns of income and Harish Reddy has been filing the returns declaring the income of the assessee. Assessment order is passed under section 144 of the act and the impugned order says that the assessee could not establish the source of cash deposits along with the credit entries to the tune of ₹ 11,71,95,0 21/- in the undisclosed bank account.

8. Impugned order does not show the filing of the bank statement or the submissions of the assessee that Mr Bandyala Harish Reddy declared the bank account and the business receipts of the assessee in his return of income. We have perused the returns of income of Mr Bandyala Harish Reddy for the assessment years 2015-16, 2016-17 and 2017-18 wherein Bandyala Harish Reddy declared the SBI account No. 33145606206.

9. Having regard to the facts and circumstances of the case, we are of the considered opinion that it is a fit case to set aside the impugned orders and restore the issue to the file of the learned Assessing Officer for verification of the facts pleaded by the assessee. Accordingly, we set aside the impugned orders and to restore the issue to the file of the learned Assessing Officer for verification of the facts pleaded by the assessee in the light of the SBI account statements and also the returns of income filed by Bandyala Harish Reddy and to take a view according to law. Grounds are accordingly treated as allowed for statistical purpose.

10. In the result, appeal of the assessee is treated as allowed for statistical purpose.

Order pronounced in the open court on this the 24th day of July, 2024.

Sd/-
(MANJUNATHA G.)
ACCOUNTANT MEMBER

Sd/-
(K.NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 24/07/2024
PVV/SPS

Copy forwarded to:

1. Laxmi Saraswathi Filling Station, S.No.436, Beside Vivera Hotel, Narketpally Village, Choutapal Mandal, Nalgonda 508254,
2. Income Tax Officer Ward 1 Railway Station Road, Nalgonda.
2. Pr.CIT , Hyderabad.
3. DR, ITAT, Hyderabad.
4. GUARD FILE

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ASSISTANT REGISTRAR
ITAT, HYDERABAD