

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

**BEFORE SHRI NARASIMHA CHARY, JUDICIAL MEMBER
AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER**

ITA No.396/Hyd/2024		
Assessment Year: 2017-18)		
Shri Surenderbabu Padakanti, Hyderabad. PAN : ABOPP0535C	Vs.	The Income Tax Officer, Ward 9(3), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Shri Mohd. Afzal appeared for Shri T. Chaitanya Kumar, Advocate.	
Revenue by:	Ms. Sheetal Sarin, SR.AR	
Date of hearing:	25.07.2024	
Date of pronouncement:	26.07.2024	

ORDER

PER MADHUSUDAN SAWDIA, A.M.

This appeal is filed by Surenderbabu Padakanti (“the assessee”), feeling aggrieved by the order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (“Ld. CIT(A)”), dated 16.01.2024 for the A.Y. 2017-18.

2. At the outset, it is seen that, there is a delay of 32 days in filing of this appeal for which the Ld. AR submitted that as the assessee is not user friendly with the online procedure, he could not see the order in time. Therefore, the delay has occurred in filing this appeal. After considering the submission of Ld. AR and after

hearing the Learned DR (“Ld. DR”), the delay of 32 days in filing of this appeal is condoned and the appeal is admitted for adjudication.

3. The grounds raised by the assessee reads as under :

“ 1. The order of the learned Commissioner of Income-tax (Appeals) is erroneous both on facts and in law, in dismissing the appeal without giving any proper opportunity to the appellant.

2. The learned Commissioner of Income-tax (Appeals) erred in passing an order without giving any proper opportunity to the appellant. The order is ex-parte, illegal and arbitrary, and violative of the principles of natural justice.

3. The learned Commissioner of Income-tax (Appeals) NFAC erred in confirming the action of the Assessing Officer in making the addition of Rs.45,10,000/- by invoking the provisions of Sec. 69A rws 115BBE of the IT Act.

4. The very approach of the learned Commissioner of Income-tax (Appeals) INFEAC in passing an order u/s 250 ex-party without giving proper opportunity to confirm the action of the assessing officer in making addition of Rs. 45,10,200/- as an income of the appellant and further erred in treating the as unexplained money u/s 69A without giving any proper opportunity, is illegal arbitrary,

without assessing any valid reasons, and is perverse, highhanded is contrary to the provisions law, therefore the order passed by the Learned Commissioner of Income tax (appeals) NFAC dated: 16-01-2024, DIN & Order No: ITBA/NFAC/S/250/2023- 24/ 1059762053(1)is illegal ex-facie and violative of principals of natural justice.

5. The learned Commissioner of Income-tax (Appeals) NFAC erred in confirming the action of the assessing officer in determining the total income at Rs.53,14,200/-. Against income admit of Rs. 8,04,200/- Without giving a further opportunity to the appellant is illegal ex-facie and violative of principles of natural justice.

6. The learned Commissioner of Income-tax (Appeals) NFAC erred in confirming the action of the assessing officer in charging interested u/s 234B Rs. 11,49,192/- of the Income tax act.

7. Any other ground/grounds may be urged at the time of hearing.”

4. Brief facts of the case are that the assessee is an individual having income from commission during the A.Y. 2017-18, filed his return of income on 14.02.2018 declaring total income of Rs.8,04,200/-. The case of the assessee was selected for limited

Scrutiny under CASS on the issue “to verify cash deposits during demonetization period”. The assessment was completed by the Learned Assessing Officer (“Ld. AO”) u/s 143(3) of the Income Tax Act, 1961 (‘the Act’) on 26.12.2019 making an addition of Rs.45,10,000/- as unexplained income u/s.69A r.w.s. 115BBE of the Act.

5. Feeling aggrieved by the order passed by the Ld. AO, assessee filed appeal before the Ld. CIT(A). The assessee did not make any compliances to the notices issued by Ld. CIT(A). Hence, the Ld. CIT(A) dismissed the appeal of the assessee.

6. Feeling aggrieved with the order of Ld. CIT(A), the assessee is now in appeal before us, contending that the Ld. CIT(A) did not provide sufficient opportunity to the assessee in proving the sources of cash deposited in the bank. It is further contended that the Ld. CIT(A) has passed the order without providing proper opportunity. The Ld. AR further submitted that the assessee does not stand to gain by allowing the appeal to be disposed of without any documentary evidence being produced and it is only due to

the reasons beyond the control of the assessee, the assessee could not produce the documents explaining the sources of cash deposited in the bank. By consolidating all the grounds, he further submitted that given an opportunity, the assessee is now ready to produce all such details and conduct the proceedings diligently and get the matter disposed of on merits.

7. Per contra, Ld. DR placed heavy reliance on the orders of the authorities below, and submitted that sufficient opportunity has already been given by the authorities, but the assessee failed to avail the same. He opposed the grant of further opportunity to the assessee.

8. We have heard the rival submissions and also gone through the record in the light of the submissions made on either side. It could be seen from the orders of the Ld. CIT(A) that the assessee failed to produce the details with regards to the deposit of cash in the bank, which resulted in passing the orders without consideration thereof. It is a fact that the assessee does not stand to gain by not producing such documents. Be that as it may, now

the assessee is ready to produce all such documentary evidence in support of his contentions and get the matter disposed of on merits. The highest that would happen by allowing an opportunity to the assessee is that a cause would be decided on merits. With this view of the matter, we are of the view that fresh opportunity should be given to the assessee and, accordingly, we set aside the impugned order and restore the issue to the file of the Ld. CIT(A) for passing a fresh order on merits after affording the opportunity of hearing to the assessee. Grounds of appeal are answered accordingly.

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

Order pronounced in the Open Court on 26th July, 2024.

Sd/-
(NARASIMHA CHARY)
JUDICIAL MEMBER

Sd/-
(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Hyderabad,
Dated 26th July, 2024.

** Reddy gp/sps*

Copy to:

S.No	Addresses
1	Shri Surenderbabu Padakanti, E-101, Aditya Empress Towers, Shaikpet Nala, Tolichowki, Golkonda Post, Hyderabad – 500004
2	The ITO, Ward 9(3), Hyderabad.
3	PrI.CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order