

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.420/Hyd/2024		
Assessment Year: 2017-18)		
M/s. Venkateswara and Co., Kadapa. PAN : AAKFV0196J	Vs.	The Income Tax Officer, Ward 1, Kadapa.
(Appellant)		(Respondent)
Assessee by:	Ms. S. Sandhya, Advocate.	
Revenue by:	Ms. Sheetal Sarin, SR.AR	
Date of hearing:	31.07.2024	
Date of pronouncement:	01.08.2024	

ORDER

PER MADHUSUDAN SAWDIA, A.M.

This appeal is filed by M/s. Venkateswara and Co., Kadapa (“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 21.02.2024 for the A.Y. 2017-18.

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

“1) The order of the learned CIT (A) is erroneous both on facts and in law;

2) The learned CIT (A) erred in confirming the action of the Assessing Officer in treating the aggregate of the deposits of Rs.4,84,38,208/- as the income of the appellant

3) The learned CIT (A) ought to have considered the fact that the appellant is carrying on the trading in of mobile services on behalf of Vodafone. The learned CIT (A) ought to have seen that the receipts are as an agent of Vodafone and the same are transferred to the account immediately after deposit.

4) The learned CIT (A) and the Assessing Officer ought to have seen that the peak amount is much lesser and there was opening balance of Rs. 14,88,062/- and therefore, the aggregate deposit cannot be added.”

3. Brief facts of the case are that the assessee is a firm. The Learned Assessing Officer (“Ld. AO”) received information that the assessee had deposited substantial cash of Rs.4,84,38,208/- in its bank account during the financial year 2016-17. Therefore the Ld. AO reopened the case of the assessee and issued notice u/s. 148 of the Income Tax Act, 1961 (“the Act”) on 29.03.2021. The assessee did not file the return of income in response to the notice issued u/s. 148 of the Act. During the assessment proceedings also the assessee did not respond to the notices issued by the Ld. AO. Consequently, the Ld. AO completed the assessment u/s. 147 r.w.s. 144 r.w.s. 144D of

the Act on 26.03.2022 by assessing the total income at Rs.4,84,38,208/-.

4. 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.

5. 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, she 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.

6. 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. She opposed the grant of further opportunity to the assessee.

7. We have heard the rival contentions 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 revenue authorities 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. AO for passing a fresh order on merits after affording the opportunity of hearing to the assessee. Grounds of appeal are answered accordingly.

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

Order pronounced in the Open Court on 1st August, 2024.

Sd/-
(NARASIMHA CHARY)
JUDICIAL MEMBER

Sd/-
(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Hyderabad,
Dated 1st Aug., 2024.

** Reddy gp/sps*

Copy to:

S.No	Addresses
1	M/s. Venkateswara & Co., 21/22, 23, Gunta Bazar, Kadapa-516001
2	The ITO, Ward 1, Kadapa.
3	PrI.CIT, Kurnool.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order