

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE "C" BENCH, BANGALORE**

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

ITA No. 1228/Bang/2024 (Assessment Year: 2017-18)		
Narayanareddy Nalini No. 49/41, CAD School Bldg. 5th Cross, Venkatapura Koramangala, Bangalore 560034 PAN – AEDPN2769J (Appellant)	vs.	ITO, Ward-4(3)(2) BMTC Building 80 Ft. Road, 6th Block Koramangala Bangalore 560095 (Respondent)
Assessee by:	Ms. Smrithi Athreya, Advocate	
Revenue by:	Shri V. Parithivel, JCIT-DR	
Date of hearing:	05.08.2024	
Date of pronouncement:	13.08.2024	

ORDER

Per: Keshav Dubey, J.M.

This appeal at the instance of the assessee is directed against the Id. CIT(A)/ NFAC's Order dated 26.04.2024 vide DIN & order No. ITBA/NFAC/S/250/2004-25/1064404938(1) passed under Section 250 of the Income Tax Act, 1961 (the Act) in respect of Assessment Year (AY) 2017-18.

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

- "1. The order passed by the learned Commissioner of Income Tax (Appeals), NFAC ("CIT(A")), under section 250 of the Income Tax Act, 1961 ("the Act"), insofar as it is against the Appellant, is opposed to law, weight of evidence, natural justice and probabilities on the facts and circumstances of the Appellant's case.*
- 2. The authorities below erred in law in passing the orders ex parte without affording sufficient opportunity of hearing and consequently, such orders are liable to be set aside on the facts and circumstances of the case.*

3. *The Appellant denies herself to liable to be assessed on a total income of Rs. 51,14,155/- of the Act.*
4. *The authorities below erred in law in not validly serving notices to the appellant on the facts and circumstances of the case.*
5. *The learned CIT(A) erred in law and on facts in confirming the addition of Rs. 51,14,155/- being bank credits under section 69A of the Act on the facts and circumstances of the case.*
6. *The authorities below failed to appreciate that the rigours of section 69A of the Act are not applicable to the case of the Appellant on the facts and circumstances of the case.*

The Appellant craves leave to add, alter, modify, delete or substitute any or all of the grounds and to file a paper book at the time of hearing the appeal.

In the view of the above and other grounds that may be urged at the time of the hearing of the appeal, the Appellant prays that the appeal may be allowed in the interest of justice and equity.”

3. The brief facts of the case are that the assessee made total cash deposits of Rs.46,94,500/- during the demonetisation period out of the total cash deposits amounting to Rs. 48,35,800/- during the F.Y 2016-17 in the assessee's bank account and also found that the assessee had not filed his return of income for the relevant AY 2017-18. As there was no response from the assessee during the course of assessment proceedings, the AO was constrained to pass a best judgement assessment u/s. 144 of the Act based on the material collected/available. The AO held that as the sum of Rs.51,14,155/- being the total credits in the account No. 20345026041 of the State Bank of India, Koramangala, III Block Branch, Bengaluru, the assessee has unexplained income u/s. 69A of the act as no explanation with regard to its source has been submitted despite adequate opportunities were granted to the assessee. Aggrieved by the assessment completed u/s. 144 of the Act dated 16.09.2019 the assessee preferred an appeal before the CIT(A).

4. The Id. CIT(A) also dismissed the appeal of the assessee on the ground that although the assessee has raised specific grounds against the impugned addition u/s. 69A of the Act but the assessee failed to submit any details or documents to discharge the primary onus even during the course of appellate

proceedings. The Id. CIT(A) further observed that even after issuing number of hearing notices, the assessee has not responded even once till the date and was of the view that the adverse finding brought on record by the AO remains unrebutted. The Id. CIT(A) further observed that the assessee seeks to raise only technical grounds stating that the assessee was not having any e-filing account and hence the notices were not served properly. The Id. CIT(A) was also of the view that since the technical grounds are taken without any factual and legal basis and is clearly an afterthought. Accordingly he dismissed the appeal of the assessee. Aggrieved by the order of the Id. CIT(A) the assessee has filed the present appeal before the Tribunal.

5. Before us the learned A.R. of the assessee drew out attention to page 1 of the paper book in which copy of the extract of the notice dated 17.04.2024 issued by the Id. CIT(A) wherein the email ID is written as nalinireddy.dlrs@gmail.com whereas the actual email ID, as uploaded by the assessee on the I.T. portal is nalinireddy.blrs@gmail.com (page 3 of the paper book) and vehemently submitted that due to mention of incorrect email ID the assessee had never been served any notice of the authorities below. The learned A.R. of the assessee further submitted that the authorities below grossly erred in passing the order ex parte without affording sufficient opportunity of hearing which is a gross violation of the principles of natural justice and accordingly prayed that one more opportunity may be granted to the assessee in the interest of justice.

6. The learned D.R., on the other hand, relied on the order of the Authorities below and also agreed that both the orders of the authorities below are ex parte.

7. We have heard the rival contentions and perused the material on record. We find that the Id. CIT(A) has sent the Hearing notice on the email ID which the assessee states to be incorrect. We also found that before the AO the

assessee could not explain his case on merits and the order is passed u/s. 144 of the Act as best of his judgement. Being so, in the interest of justice and fair play, we are of the opinion that it is proper to remand the issue in dispute in its entirety to the file of the AO to consider the case afresh. The assessee is directed to file all the documents/record before the AO and satisfy him regarding the genuineness of the transaction made by the assessee and the AO is to decide the issue afresh after giving reasonable opportunity of being heard to the assessee in accordance with law. The assessee is directed to update the email ID and contact number in the I.T. portal and cooperate with the proceedings before the Revenue authorities.

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

Order pronounced in the open Court on 13th August, 2024.

Sd/-

(Chandra Poojari)
Accountant Member

Sd/-

(Keshav Dubey)
Judicial Member

Bengaluru, Dated: 13th August, 2024
n.p.

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT, concerned*
4. *The DR, ITAT, Bangalore*
5. *Guard File*

By Order

//True Copy//

Assistant Registrar
ITAT, Bangalore

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	05.08.2024		Sr. PS/PS
2	Draft placed before author	06.08.2024		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement			Sr. PS/PS
7	File sent to Bench Clerk			Sr. PS/PS
8	Date on which the file goes to Head Clerk			
9	Date on which file goes to A.R.			
10	Date of Dispatch of order			