

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A" , HYDERABAD**

BEFORE

**SHRI LALIET KUMAR, HON'BLE JUDICIAL MEMBER
AND
SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER**

ITA No.533/Hyd/2024		
Assessment Year: 2017-18		
Ms. Sailaja Potu, H.No.1-1-5/1/2, 1 st Floor, Beside Satsang Vihar, Near Pillar No.216, Rajendra Nagar X Road, Telangana – 500048. PAN : AFNPP6744A	Vs.	The Income Tax Officer, Ward – 7(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Shri D. Sai Krishna, C.A. (Appeared through Virtual Mode)	
Revenue by:	Shri Srinath Sadanala, Sr.A.R.	
Date of hearing:	05.08.2024	
Date of pronouncement:	06.08.2024	

ORDER

PER LALIET KUMAR, J.M.

This appeal is filed by the assessee, feeling aggrieved by the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 21.03.2024 for the AY 2017-18 on the following grounds :

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

“i. The Hon. CIT (A) erred in dismissing the appeal ex-parte, for alleged non-compliance to hearing notices, without deciding the appeal on the merits as per section 250(6) of the Income Tax Act, 1961 and for this reason also the order of the Hon. CIT(A) is bad-in-law and required to be set aside.

ii. That the order is bad in law as well as on facts as the Ld. CIT (Appeals) erred in upholding addition of Rs. 94,99,000/- made by AO on account of Cash deposits made by the assessee during demonetization period without verification of whether deposited cash is specified notes or not.

iii. The Ld. CIT(A) erred in sustaining the addition of Rs.94,99,000/- made by Ld. AO under section 69A as unexplained money without considering the objections raised by the appellant during assessment proceedings as the cash sales made by appellant already considered as Sales in books of accounts.

iv. The Hon. CIT(A) erred in confirming addition of Rs. 94,99,000/- as unexplained money u/s 69A, without considering the trend of cash sales and cash deposits during the previous year and previous month even though submitted by the appellant during assessment proceedings.

v. Learned AO has grossly erred in passing Assessment Order u/s 143(3) without issuing Show Cause Notice, hence no sufficient opportunity provided by the AO against the principles of Natural Justice.

vi. The learned Assessing officer erred in making an addition u/s 69A without appreciating the fact that the provisions of section 69A are not applicable to the facts and circumstances of the case of the appellant as the cash sales were recorded in books of accounts.

vii. The Learned Assessing Officer made addition, without bringing any material on record to believe the evidences and explanation given by the appellant.”

3. Facts of the case, in brief, are that the assessee, who is engaged in the business for whole/retail trading of Milk Products, vanaspathi ghee etc, filed return of income for AY 2017-18 on 04.11.2017 declaring total income of Rs. 6,51,160/-. Subsequently, the case was taken for scrutiny under CASS and notice u/s 143(2) was issued to the assessee on 25.09.2018. Subsequently, several notices u/s 142(1) were issued from time to time calling for information. During the course of assessment proceedings, Assessing Officer found that the assessee had made cash deposit of Rs. 1,34,82,059/- during demonetization period which was in old denomination i.e. Rs. 1,000/- and Rs. 500/- (not a legal Tender) and on questioning, assessee submitted Monthly Cash details only. On perusal of the same, Assessing Officer found that the assessee has cash in hand of Rs. 39,83,356/- as on 08.11.2016.

3.1. Further, on perusal of the statements furnished by the assessee, it was noticed that the assessee had submitted the source for cash deposits as cash sales only. The difference of Rs. 1,34,82,000/- - Rs. 39,83,000/- (maximum allowable as per the details), which comes out to Rs. 94,99,000/- was in question as to why the above amount was received in cash out of sale and deposited in the bank, when the denominations were no more valid tenders, for which the assessee did not give her explanation. Taking this into consideration and also the fact that the assessee did not admit the said cash deposits in the return of income, the

authenticity of the “source” cannot be ascertained. Thus, the source for cash deposits of Rs. 94,99,000/- had remained unexplained and hence, the same was added back to the income returned u/s. 69A of the Act and was taxed according to the provisions of Section 115BBE of the Act. Accordingly, Assessing Officer completed the assessment and passed assessment order on 31.12.2019 u/s 143(3) of the Act.

4. Feeling aggrieved by the order passed by the Assessing Officer, assessee filed appeal before the Ld. CIT(A) / NFAC, who dismissed the appeal of assessee.

5. Feeling aggrieved with the order of ld.CIT(A), assessee is now in appeal before us.

6. Before us, ld.AR submitted the order passed by the ld.CIT(A) is an exparte order, as the assessee has failed to provide necessary information and appear during the course of appellate proceedings. Hence, the ld. AR requested the Bench to remand the matter back to the file of Assessing Officer.

7. Per contra, the ld.DR relied upon the orders of lower authorities.

8 We have heard the ld. DR and perused the material available on record and also the order passed by the lower authorities. On perusal of the impugned order passed by ld.CIT(A), we found that ld.CIT(A) passed an ex parte order confirming the action of the Assessing Officer. From para 4 of the order of ld.CIT(A), it is clear that ld.CIT(A) was forced to decide the appeal on the basis of material available on record, as there was no representation on behalf of the assessee. In view of the above reasons, in our view, the ends of justice will be met if the matter is remanded back to the file of ld.CIT(A) with a direction to decide the issue after considering the documents available on record and affording the opportunities of hearing to the assessee in accordance with law subject to payment of costs of Rs.3,000/- (Rupees Three Thousand only) to be deposited by the assessee in the Prime Minister Relief Fund within one month or from the date of receipt of this order or whichever is earlier.

9. The assessee shall be at liberty to file documents, if any, as required for proving her case and the ld.CIT(A) shall consider the evidences, if any, filed by the assessee. Needless to say the ld.CIT(A) shall examine those documents / evidence filed by the assessee and also the other documents available on record. After considering the documents filed by the assessee and the submissions made by the assessee, the ld.CIT(A) shall pass a detailed speaking order dealing with the contentions of the assessee. We have not adjudicated the other grounds on merits

as we are setting aside the orders passed by the lower authorities to the file of Id.CIT(A) for fresh adjudication. Thus, the grounds of the assessee are allowed for statistical purposes.

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

Order pronounced in the Open Court on 6th August, 2024.

Sd/-

Sd/-

(G. MANJUNATHA) ACCOUNTANT MEMBER	(LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 6th August, 2024.

TYNM/sps

Copy to:

S.No	Addresses
1	Sailaja Potu, H.No.1-1-5/1/2, 1 st Floor, Beside Satsang Vihar, Near Pillar No.216, Rajendra Nagar X Road, Telangana – 500048.
2	The Income Tax Officer, Ward – 7(1), Hyderabad.
3	Prl.CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order