

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad

Before Shri Manjunatha, G. Accountant Member and
Shri Prakash Chand Yadav, Judicial Member

आ.अपी.सं / **ITA No.690/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2017-18)

Shri Venkata Suresh Babu Ratikindi NELLORE PAN:ATNPR5184N	Vs.	Income Tax Officer Ward - 1 NELLORE
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by: Shri K.C. Devdas, CA		
राजस्व द्वारा / Revenue by:: Shri Srinath Sadanala, DR		
सुनवाई की तारीख / Date of hearing: 17/09/2024		
घोषणा की तारीख / Pronouncement: 17/09/2024		

आदेश/ORDER

Per Manjunatha, G. A.M

This appeal filed by the assessee is directed against the order dated 31/10/2023 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2017-18.

2. At the outset, it is seen that there is a delay of 201 days in filing of the appeal before the Tribunal. The assessee has explained the reasons for such delay. After hearing the learned DR, the delay of 201 days in filing the appeal before the Tribunal is hereby condoned and the appeal is admitted for adjudication.

3. Facts of the case, in brief, are that the assessee deposited cash amounting to Rs.21,21,500/- in his bank account during the demonetization period for the financial year 2016-17 relevant to A.Y 2017-18, but has not filed his return of income for the impugned A.Y. Therefore, the Assessing Officer issued notice u/s 142(1) to the assessee on 9/2/2018 calling for return of income for the A.Y 2017-18 which was duly served electronically and manually also on 15/02/2018. There was no response from the assessee for the notice. Thereafter, the Assessing Officer issued several notices on many occasion. Since the assessee did not comply with the statutory notices, the Assessing Officer completed the “best judgment assessment” u/s 144(1)(b) of the I.T. Act, 1961 and completed the assessment and assessed the total income of the assessee at Rs.1,72,50,394/-.

4. Being aggrieved, the assessee preferred an appeal before the learned CIT (A). Before the learned CIT (A) also, the assessee neither appeared nor filed any details. Therefore, the learned CIT (A) dismissed the appeal filed by the assessee on technical ground for non-prosecution, by following the decision of the Hon'ble Supreme Court in the case of CIT vs. B.N. Bhattacharjee & Another (181 ITR 461) and the decision of the ITAT Delhi Benches in the case of CIT vs. Multiplan India Ltd (38 ITD 320)(Del.).

5. Aggrieved by the order of the learned CIT (A) the assessee is in appeal before the Tribunal.

6. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. We find that the learned CIT (A) has not discussed the issue on merits . It is an admitted fact by the decisions of various Courts that, even in a case of ex-parte proceedings for non-appearance of the appellant, the appellate authorities should decide the appeals on merit on the basis of material available on record. Since the learned CIT (A) has dismissed the appeal filed by the assessee on technical ground, in our considered view, the issue needs to go back to the file of the lower authorities for fresh consideration. Further, even before the Assessing Officer also, the assessee has not appeared and filed any details. Therefore, instead of setting aside the issue to the file of the learned CIT (A), we decide to set aside the issue to the file of the Assessing Officer. Therefore, the order of the learned CIT (A) is set aside and the issue is restored back to the file of the Assessing Officer for fresh consideration. The Assessing Officer is directed to reconsider the issue after providing reasonable opportunity of being heard to the assessee. Needless to say, the assessee shall furnish relevant details before the Assessing Officer without seeking any adjournment. The assessee is also hereby directed to pay a nominal cost of Rs.1000/- at the Telangana State Legal Aide Authorities at the Hon'ble Telangana High Court within a period of one month from the date of this order and submit necessary payment slip to the Registry.

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

Order pronounced in the Open Court on 17th September, 2024.

Sd/-

Sd/-

(PRAKASH CHAND YADAV) JUDICIAL MEMBER	(MANJUNATHA, G.) ACCOUNTANT MEMBER
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Hyderabad, dated 17th September, 2024

Vinodan/sps

Copy to:

S.No	Addresses
1	Shrti Venkata Suresh Babu Ratikindi, 3-416 Bunti House, Lakshmi Puram, Stone House Pet, Nellore 524002, A.P
2	Income Tax Officer Ward-1, 24-2-438 1 st Floor, GT Road, Nellore
3	Pr. CIT – Tirupati
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order