

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

BEFORE
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER
&
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / ITA No.701/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2018-19)

The Karimnagar District Cooperative Central Bank Limited
Karimnagar
[PAN :AABAT0905H] Vs. Income Tax Officer
Ward-2
Karimnagar

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri P.Murali Mohan Rao, AR
राजस्व द्वारा/Revenue by: Shri Ranjan Agarwala, DR

सुनवाई की तारीख/Date of hearing: 18/09/2024
घोषणा की तारीख/Pronouncement on: 20/09/2024

आदेश / ORDER

PER PRAKASH CHAND YADAV, J.M:

Present appeal of the assessee is arising from the order of the Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ("Ld.CIT(A)") dated 10.05.2024 and relates to assessment year 2018-19.

2. There is a delay of 14 days in filing the present appeal before the Tribunal. Explaining the reasons for the delay, the learned counsel for the assessee pointed out that the Principal Officer, who is the authorized signatory for the litigation work of Income Tax department of the assessee bank was out of town, that is why there is a delay of 14 days in filing the

present appeal. The learned counsel for the assessee has also drawn the attention of the Bench towards the affidavit filed by the Principal Officer of the assessee bank. The Ld. DR could not seriously object to the prayer for condonation of delay. Considering the smallness of the delay and the facts of the case, we hereby condone the delay and proceed to adjudicate the matter.

2. Facts leading to filing of the present appeal are that the assessee is a cooperative bank carrying on banking business and had filed its return of income declaring an income of Rs.9,50,67,410/- and paid the taxes thereon. The case was selected for scrutiny and during the course of assessment proceedings, the assessee had realized that they have not added back the amount of excess provision made over the actual amount of gratuity provided during the year and had immediately offered the differential amount of Rs.16,19,486 to tax. The assessing officer had completed the assessment making an addition to the tune of the agreed amount of Rs.16,19,486/- and no other item of addition was required. The assessee had duly deposited the demand raised in the assessment to the tune of Rs.9,94,024/- within a period of one month and had also responded to the Notice issued under section 270A with a plea under sec.270AA for grant of immunity against the penalty proposed, considering the fulfilment of conditions enumerated under section 270AA. The Ld. Assessing Officer went on to ignore the plea submitted on 03.09.2021 with all the details. After completing the assessment, the Ld. Assessing Officer levied a penalty of Rs.5,60,470/- u/s 270A of the Act vide order dated 06/09/2021.

3. Aggrieved with the order of the Ld. Assessing Officer levying penalty, the assessee preferred appeal before the Ld.CIT(A) on 05/10/2021 and assailed the order of the Ld. Assessing Officer, contending that the Assessing Officer ought to have granted immunity to the assessee as per the provisions of section 270AA(3) of the Act. However, Ld.CIT(A) could not find any force in the argument of the assessee and dismissed the appeal of the assessee only on the ground that the assessee has not uploaded the details of paying tax upto October, 2021.

4. At the outset, the learned counsel for the assessee before us pointed out that the assessee has deposited the tax as computed by the Assessing Officer within one month from the date of assessment and hence, merely because the assessee has provided the hard copy of Form 68 on a later date would not debar the assessee from getting immunity from section 270AA of the Act.

5. Ld.DR relied on the order of the authorities below.

6. After considering the rival submissions, we observe that page no.8 of the compilation filed by the assessee would prove beyond doubt that the assessee had paid taxes on 20.03.2021 i.e., within one month from the date of assessment order. We further observe that section 270AA(3) would provide immunity to such assessee who deposits the amount of tax within one month and could not file appeal against the assessment order would get immunity from the penalty u/s 270A. The assessee has relied on the judgement of Punam Kumar Bhati Vs ITO reported in [2024] 165 Taxmann.com 286 (Jodhpur-Trib), wherein, under similar facts, the ITAT has held that mere delay in submitting the physical copy of the challan as proof of deposit of tax would not be sufficient to deny immunity provided under section 270AA(3). Respectfully following the judgement of Jodhpur Bench (supra), we allow the appeal of the assessee.

7. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on this the 20th day of September, 2024.

Sd/-
(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Sd/-
(PRAKASH CHAND YADAV)
JUDICIAL MEMBER

Hyderabad,

Dated: 20 /09/2024

L.Rama, SPS

Copy forwarded to:

1. The Karimnagar District Cooperative Central Bank Limited, C/o P.Murali & Co., Chartered Accountants, 6-3-655/2/3, Somajiguda, Hyderabad
2. The Income Tax Officer, Ward-2, Karimnagar
3. The Pr.CIT, Hyderabad
4. The DR, ITAT, Hyderabad
5. Guard File

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ITAT, HYDERABAD