

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

**BEFORE**

**SHRI LALIET KUMAR, HON'BLE JUDICIAL MEMBER  
AND  
SHRI MADHUSUDAN SAWDIA, HON'BLE ACCOUNTANT MEMBER**

ITA No.767/Hyd/2024		
Assessment Year – 2013-14		
Mikkilineni Sudhakar Hyderabad PAN : ANUPM3615L	Vs.	Deputy Commissioner of Income Tax Circle-6(1) Hyderabad
(Appellant)		(Respondent)
Assessee by:	Shri P.Vinod, Ld.AR	
Revenue by:	Shri Madan Mohan Meena, Ld.DR	
Date of hearing:	08.10.2024	
Date of pronouncement:	10.10.2024	

**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 19.07.2024 for the AY 2013-14.

2. In this case, assessment in the case of the assessee was completed and order was passed u/s 143(3) r.w.s. 147 of the

Income tax Act, 1961 (“the Act”) dated 29.03.2022, making an addition of Rs.70,23,400/- u/s 69A of the Act.

3. Aggrieved, assessee preferred an appeal before the CIT(A) and the learned CIT(A) dismissed the appeal of the assessee ex-parte as there was non-compliance by the assessee despite grant of sufficient opportunities and passed the following order vide para 6.1 of the order, which reads as under :

*“6.1. Ground of appeal No.2 is against the addition made by Ld.AO amounting to Rs.70,23,400/- on account of unexplained money u/s 69A of the Income tax Act, 1961. On perusal of assessment order, it reveals that the case of the appellant was reopened u/s 147 on the basis of information available with the department that the appellant had deposited huge cash of Rs.1,09,58,548/- in his bank account maintained with HDFC and Axis Bank during the year under consideration but not filed any return of income. Notice u/s 148 was issued to the appellant on 30.03.2021 with the prior approval of the competent authority. In response to this notice, the appellant filed return of income on 10.01.2022 declaring loss of Rs.14,50,875/-. During the year, the appellant was engaged in the business of Distribution and Exhibition of the Films in Telugu Language for the Krishna District, Andhra Pradesh. The appellant buys the theatrical exhibition rights from the main distributors of the firm and run the film in theatre to recover cost of buying exhibition right. The appellant exhibiting the movies in various Cinema Theatres either on lease basis or on the basis of revenue sharing. During the assessment proceedings, the Ld.AO asked the appellant to furnish the source of cash deposited in his bank account along with documentary evidences. In response to this, the appellant filed reply*

*along with bank statement and computation of income but not furnished any evidences with regard to cash deposit in his bank account maintained with HDFC Bank amounting to Rs.39,64,410/- and cash deposit of Rs.69,94,138/- in the bank account maintained with Axis Bank. The appellant filed his written submission and evidences on 03.03.2021 with respect to cash deposit. The Ld.AO examined the reply of the appellant and found correct with regard to the addition of Rs.39,35,145/-. However, the appellant could not furnish any satisfactory reply / evidences with regard to cash deposit of Rs.70,23,400/-. In the absence of submission / evidences, the Ld.AO treated the amount of Rs.70,23,400/- as unexplained money and added to his returned income u/s 69A of the I.T.Act, 1961.”*

4. At the outset, the learned Ld.AR submitted that the learned CIT(A) is not justified in dismissing the appeal of the assessee ex-parte as the assessee sought time in response to notice dated 30.10.2023 and other notices dated 11.08.2023, 29.08.2023 and 10.07.2024 were not served on the assessee to put forth his case. Learned AR further submitted that the learned CIT(A) dismissed the appeal of the assessee without appreciating the fact that the evidence filed in support of the sources for the cash deposit before the learned Assessing Officer was not considered. He, therefore, pleaded to afford an opportunity of being heard before the learned CIT(A), keeping in view the principles of natural justice.

5. Per contra, learned DR submitted that the learned CIT(A) is justified in dismissing the appeal of the assessee as the assessee failed to furnish submissions / evidences in support of his claim, despite being given sufficient opportunities. He, therefore, pleaded to uphold the order passed by the learned CIT(A) and dismiss the appeal of the assessee.

6. We have heard the rival contentions and perused the material available on record. In this case, assessee appears to be film distributor and well versed about his right. Undoubtedly, onus is on the assessee to discharge his burden of proof by complying with the notices issued by the revenue authorities to put forth his case with supporting evidences. Learned AR pleaded before us for grant of an opportunity of being heard before the learned CIT(A) to put forth his case with supporting evidences in support of his claim, keeping in view the principles of natural justice. Therefore, we deem it appropriate to remit the matter back to the Ld.CIT(A) with a direction to decide the issue and pass order in accordance with law subject to payment of costs of Rs.8,000/- (Rupees Eight Thousand only) in favour of Prime Minister National Relief Fund which shall be payable within two months from the date of receipt

of this order or whichever is earlier. In the light of the above, the appeal of the assessee is allowed for statistical purpose.

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

Order pronounced in the open court on 10<sup>th</sup> October, 2024.

**Sd/-**

**(MADHUSUDAN SAWDIA)**

**ACCOUNTANT MEMBER**

Hyderabad, dated 10.10.2024.

*L.Rama, SPS*

**Sd/-**

**(LALIET KUMAR)**

**JUDICIAL MEMBER**

Copy to:

S.No	Addresses
1	Shri Mikkilineni Sudhakar, Flat No.FF-5, HRT Residency, Colony 2RO, Siddhartha Nagar, Vijayawada
2	The Deputy Commissioner of Income Tax, Circle-6(1), Hyderabad
3	Pr.CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*