

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA Nos. 1426 & 1427/Bang/2024
Assessment Years : 2017-18 & 2018-19

Shri Jairoop Kothapalli, 49-55-12, Flat No. 402, Sirisha Residency, Vidyut Napam, Opp Kiran Park, Visakhapatnam – 530 024. PAN: ACTPK0345B	Vs.	The Income Tax Officer, Ward – 6(3)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Smt. Lakshmi, Advocate
Revenue by	:	Shri Subramanian .S, JCIT-DR

Date of Hearing	:	04-09-2024
Date of Pronouncement	:	10-10-2024

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

These are the appeals filed by the assessee challenging the orders of the NFAC, Delhi both dated 12/10/2023 in respect of the A.Ys. 2017-18 and 2018-19.

2. The brief facts of the case are that the assessee filed its return of income for the A.Ys. 2017-18 and 2018-19 and the revenue based on the deposits made in the bank account and also for the reason that the assessee had purchased a property, had taken up the case of the assessee for

scrutiny under CASS and after considering the explanations offered by the assessee, the AO had made the addition of Rs 87,99,354 u/s 69 and 56(2)(vii)(b)(ii) of the Act for the A/Y 2017-18 and Rs. 35,41,500/- u/s 69A of the Act for the A/Y 2018-19.

3. The assessee challenged the said order before the Ld.CIT(A) and contended that the assessment made u/s. 69 & 69A of the Act were not correct that too for the A.Y. 2018-19 ex-parte. The Ld.CIT(A) had issued various notices for the hearing of the appeals but the assessee did not appear before the Ld.CIT(A) and therefore the Ld.CIT(A) had decided the appeals ex-parte and dismissed the same. As against the said dismissal order of the Ld.CIT(A), the assessee had filed these appeals before this Tribunal and raised several grounds on merits.

4. These appeals were filed by the assessee with a delay of 234 days for which the assessee filed an application to condone the said delay. In the application, the assessee contended that he was originally residing at Bangalore and at present he is residing at Visakhapatnam, Andhra Pradesh and therefore he has not received any communication from the authorities about the various dates of hearing. Therefore the assessee was not able to give proper instructions to the AR and therefore the appeal was heard ex-parte and thereafter, the order was also sent through only on the portal. In fact, the order of the Ld.CIT(A) was not sent through the email address of the assessee and therefore the assessee was not able to file the appeal in time before this Tribunal. Only after sometime, the assessee came to know about the order and thereafter he contacted the present AR and the appeal was finally prepared and filed before this Tribunal with a delay of 234 days in both the appeals.

5. We considered the reasons adduced by the assessee in the delay condonation application and satisfied that the assessee was prevented by

sufficient cause from filing the appeal in time and therefore we are condoning the said delay of 234 days.

6. At the time of hearing, the Ld.AR also brought to our notice that all the notices were sent through the portal but unfortunately, the assessee was also not doing well during the dates of hearing and therefore he was not in a position to travel to Bangalore from Visakhapatnam to instruct the ld AR who was handling the appeals. The Ld.AR finally prayed to grant one more opportunity to appear before the authority and prayed to allow the appeals.

The Ld.DR submitted that the assessee had not utilized the opportunities granted by the Ld.CIT(A) and therefore prayed to dismiss the appeal.

7. We have heard the arguments of both sides and perused the materials available on record.

8. As seen from the order of Ld.CIT(A), there were several hearing notices issued to the assessee through online but for none of the notices, the assessee appeared and therefore the Ld.CIT(A) had dismissed the appeal ex-parte for non-prosecuting the appeals.

9. We have considered the submissions made by the Ld.AR to the effect that no physical notice and no notices were issued to the email ID of the assessee and also the fact that the assessee is in Visakhapatnam and therefore he was not able to appear before the Ld.CIT(A) and found that the reasons adduced by the Ld.AR for non-appearing before the Ld.CIT(A) are genuine and therefore we are of the view that the assessee was not provided an effective opportunity to appear before the Ld.CIT(A). Further, in respect of A.Y. 2018-19 the AO had also made a best judgment assessment u/s. 144 of the Act. In such circumstances, in the interest of justice, we are inclined to set aside the orders of the ld CIT(A) and grant one more opportunity to the assessee to appear before the Ld.CIT(A). We also direct the assessee to

appear before the Ld.CIT(A) and produce the documents in support of their claim and the Ld.CIT(A) would also decide the appeal after hearing the assessee in person and in accordance with law. We also direct the Ld.CIT(A) to send the hearing notices to the email address given by the assessee i.e. cashreehari@gmail.com .

10. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on 10th October, 2024.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 10th October, 2024.
/MS /

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|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore