

आयकर अपीलिय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "SMC", HYDERABAD
BEFORE
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER**

आ.अपी.सं / ITA No.695/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2016-17)

Sri Ganapathi Seva
Samithi
Hyderabad
[PAN :AAFAS7805K]

Income Tax Officer
Vs. Ward-7(1)
Hyderabad

अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Adv M.Pranay Sagar, AR
appeared for Adv.T.Chaitaya Kumar

राजस्व द्वारा/Revenue by : Shri AVES Madhukar, DR

सुनवाई की तारीख/Date of hearing: 10/10/2024
घोषणा की तारीख/Pronouncement on: 10/10/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 25/06/2024 passed by the learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ("Learned CIT(A)"), in the case of Sri Ganapathi Seva Samithi ("the assessee") for the assessment year 2016-17, assessee preferred this appeal.

2. Assessee is a society registered under Andhra Pradesh (Telangana Area) Public Societies Registration Act, 1350F with the objectives of performing Hindu pooja in temple, charitable activities like annadanam, helping poor people and management of temple complex etc. Assessee filed return of income for the A.Y.2016-17 on 08/03/2018, declaring total

income of Rs.71,600/-. Subsequently, learned Assessing Officer gathered information that the assessee deposited cash amounting to Rs.43,58,507/- in the bank account maintained with Corporation bank, Koyilandy branch.

3. Learned Assessing Officer issued notice and the assessee replied that for conducting various poojas and utsavas in the temple organized by the assessee, they received funds in cash. They have also received cash through Hundi, which they have deposited in the bank. Learned Assessing Officer noted that the assessee claimed the income to be in the nature of business income, but since the activities of the assessee are not in consonance with their plea, no profit motive and no commercial activities are involved in the working of the assessee, they cannot claim so. Learned Assessing Officer further found that the assessee cannot claim exemption under section 10(23C)(iv). Therefore holding that the assessee is neither a business organization nor a charitable institution, learned Assessing Officer brought the entire amount to tax in the hands of the assessee.

4. Aggrieved, assessee preferred appeal before the learned CIT(A) and the learned CIT(A) by order dated 25/06/2024 upheld the additions made by the learned Assessing Officer and dismissed the appeal. Hence this appeal by the assessee.

5. At the outset, learned Ld.AR pleaded that the assessee requested for an adjournment and also for personal hearing on 24/04/2024 to put forth their case in detail, but no such opportunity was granted by the learned CIT(A) and on the other hand, learned CIT(A) had chosen to proceed ex-parte and to decide the appeal basing on the record. Learned AR pleaded that given an opportunity, assessee is ready to conduct their defence diligently and it is only for valid reasons they sought adjournment, which was denied by the learned CIT(A). Learned Ld.AR submitted that in all fairness, a personal hearing should have been granted by the learned CIT(A) to the assessee.

6. Learned DR vehemently opposed the request made by the assessee, stating that both the authorities have granted sufficient opportunity to the

assessee, but the assessee had taken contradictory views against the learned Assessing Officer and the learned Assessing Officer rightly rejected the same; whereas before the learned CIT(A), assessee failed to prosecute their case diligently.

7. I have gone through the record in the light of the submission made either side. It is a fact that notices were issued for appearance of the assessee on 14/06/2023, 09/04/2024 and 18/04/2024, but the assessee does not seem to have participated in the enquiries on those dates. However, plea of the assessee is that they wanted personal hearing to be held on 24/04/2024, but no such opportunity was granted by the learned CIT(A). Order of the learned CIT(A) is silent on this aspect. The fact remains that the assessee does not stand to gain by allowing the appeal to be disposed of ex-parte, unless, there are compelling reasons for seeking adjournment. The highest that would happen is that the case could be decided on merits.

8. With this view of the matter, I take a view that allowing an opportunity to the assessee to submit their papers and to conduct the case diligently would serve the ends of justice. I set aside the impugned order and restore to the file of the learned CIT(A) to receive the documents and to consider the contentions of the assessee after giving an opportunity of being heard to the assessee and to take a view according to law. Grounds of appeal are answered accordingly.

9. In the result, appeal of the assessee is allowed for statistical purpose.

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

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad, Dated: 10/10/2024

L.Rama, SPS

Copy forwarded to:

1. Sri Ganapathi Seva Samithi, Near Mehdipatnam Ring Road, Padmanabhanagar Temple, Hyderabad
2. The ITO, Ward-7(1), Hyderabad
3. The Pr.CIT, Hyderabad
4. The DR, Hyderabad
5. Guard File

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