

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “SMC”, HYDERABAD**

BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.944/Hyd/2024		
Assessment Year: 2017-18		
Lake View Filling Station, Warangal. PAN : AAMFM5191J (Appellant)	Vs.	The Income Tax Officer, Ward – 1, Warangal. (Respondent)
Assessee by:		Shri A.V. Raghuram, Advocate (Appeared through virtual hearing)
Revenue by:		Shri U. Mini Chandran, Sr.AR
Date of hearing:		14.10.2024
Date of pronouncement:		14.10.2024

ORDER

PER LALIET KUMAR, J.M.

The appeal of the assessee for A.Y. 2017-18 arises from the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dt.24.07.2024 invoking proceedings under section 147 r.w.s. 144 of the Income Tax Act, 1961 (in short, “the Act”).

2. The grounds raised by the assessee read as under :

“ 1. On the facts and circumstances of the case, the order of the ld.CIT(A) is erroneous and unsustainable in law apart from being passed in violation of principles of natural justice. The ld.CIT(A) failed to appreciate that in response to notice dated 20.05.2024, request was made for time and other notices issued on 01.07.2024 and 11.07.2024 were not served on the appellant and therefore, could not put forth their case.

2. The learned CIT (A) erred in sustaining the addition made by the Assessing Officer of Rs.28,26,000/- as unexplained cash credit u/s 68 of the I.T. Act, 1961.

3. The authorities below failed to appreciate that the deposits in HDFC Bank for Rs.28,26,000/- is considered while filing the return of income and that the same cannot be treated as unexplained cash credit u/s 68 of the Act.”

3. The brief facts of the case are that the assessee was engaged in the business of petrol pump and filed its return of income for A.Y. 2017-18 declaring total income of Rs.4,28,090/-. During the scrutiny proceedings for the A.Y 2017-18 in the case of Shri Madhava Reddy Gudipati, it was noticed that HDFC Bank Account which is linked to the PAN of individual was maintained and operated by the assessee and further, noticed that there was cash deposits of Rs.28,26,000/- in the said HDFC Bank Account and during demonetization period, the said Bank account was operated by the assessee firm even though it was linked to the PAN of an individual and not that of assessee firm. Assessee firm has not disclosed the said bank account in its return of income and the cash deposits therein during demonetization. In view of the above, Assessing Officer opined that there was reason to believe that there

was an escapement of income of Rs.28,26,000/- from assessment and hence, issued notice u/s 148 of the Act on 29.07.2022 and notice u/s 142(1) on 26.12.2022. For which assessee partially replied on 08.02.2023 and for further notices, assessee submitted that it had inadvertently missed out mentioning the said bank account (HDFC) details in ITR and amount of cash deposits made. Though, the submissions of the assessee were taken on record, Assessing Officer opined that assessee cannot be given the benefit of doubt. In view of the above, cash deposit of Rs.28,26,000/- was brought to tax as unexplained cash credits and completed the assessment. Accordingly, Assessing Officer passed assessment order on 23.05.2023 u/s 147 r.w.s. 144B of the Act.

4. Feeling aggrieved with the order of Assessing Officer, assessee filed an appeal before the ld.CIT(A), NFAC, Delhi, who dismissed the appeal of assessee.

5. Before me, ld.AR submitted the order passed by the ld.CIT(A) is an ex parte order, as the assessee has failed to provide necessary information and appear during the course of appellate proceedings. Hence, the ld. AR requested the Bench to remand the matter back to the file of Assessing Officer.

6. Per contra, the ld.DR has not raised any objection for remanding the matter back to the file of lower authorities.

7. I have heard the rival contentions of both the parties and perused the material available on record and also the order passed by the lower authorities. On perusal of the impugned order passed by ld.CIT(A), I found that ld.CIT(A) passed an exparte order confirming the action of the Assessing Officer in his assessment framed on 23.05.2023. The merits of the assessee's appeal before the ld.CIT(A) have neither been discussed nor decided by the ld.CIT(A). From para 9 of the order of ld.CIT(A), it is clear that ld.CIT(A) was forced to decide the appeal on the basis of material available on record, as there was no representation on behalf of the assessee. In view of the above reasons, in my view, the ends of justice will be met if the matter is remanded back to the file of ld.CIT(A) with a direction to decide the issue after considering the documents available on record and affording the opportunities of hearing to the assessee in accordance with law subject to payment of costs of Rs.5000/- (Rupees Five Thousand only) to be deposited by the assessee in the account of Prime Minister National Relief Fund which shall be deposited within one month or from the date of receipt of this order or whichever is earlier.

8. The assessee shall submit satisfactory explanation to the ld.CIT(A) with respect to cash deposits of Rs.28,26,000/- in HDFC Bank Account during the demonetization period operated by assessee firm though it was linked to the PAN of an individual namely, Madhava Reddy Gudipati. The assessee shall be at liberty

to file documents, if any, as required for proving its case and the ld.CIT(A) shall consider the evidence, if any, filed by the assessee. Needless to say the ld.CIT(A) shall examine those documents / evidence filed by the assessee and also the other documents available on record. After considering the documents filed by the assessee and the submissions made by the assessee, the ld.CIT(A) shall pass a detailed speaking order dealing with the contentions of the assessee. I have not adjudicated the other grounds on merits as I am setting aside the orders passed by the lower authorities to the file of ld.CIT(A) for fresh adjudication. Needless to say, I have not adjudicated any other ground, all the grounds are required to be adjudicated by the ld.CIT(A) in the remand proceedings. Accordingly, the appeal of the assessee is allowed for statistical purposes.

9. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the Open Court on 14th October, 2024.

Sd/-

(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad, dated 14th October, 2024.

TYNM/sps

Copy to:

S.No	Addresses
1	Lake View Filling Station, Kazipet Bypass, Prashanthi Nagar, Hanamkonda, Warangal – 506001, Telangana.
2	The Income Tax Officer, Ward – 1, Warangal.
3	Prl.CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order