

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

BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.909/Hyd/2024		
Assessment Year: 2017-18		
Chittipolu Srinivas, Nalgonda. PAN : FUBPS4521L (Appellant)	Vs.	The Income Tax Officer, Ward – 1, Nalgonda. Telangana. (Respondent)
Assessee by:	Shri T. Chaitanya Kumar	
Revenue by:	Shri U. Mini Chandran, Sr.AR	
Date of hearing:	15.10.2024	
Date of pronouncement:	15.10.2024	

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.29.02.2024 invoking proceedings under section 144 of the Income Tax Act, 1961 (in short, “the Act”).

2. The appeal filed by the assessee is barred by limitation by 36 days. The appellant has moved a condonation petition explaining reasons thereof. I have heard both the parties on this preliminary issue. Having regard to the reasons given in the petition, I condone the delay and admit the appeal for hearing.

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

“1. The order of the learned Commissioner of Income-tax (Appeals) is erroneous both on facts and in law, without giving any proper opportunity to the appellant.

2. The learned Commissioner of Income-tax (Appeals) erred in passing an order Ex-Parte without giving any proper opportunity to the appellant. The order of the CIT(Appeals) is ex-parte, illegal and arbitrary, and violative of the principles of natural justice.

3. The order of the learned Commissioner of Income-tax (Appeals) is erroneous both on facts and in law, without giving any proper opportunity to the appellant.

4. The order of the learned Commissioner of Income-tax (Appeals) is arbitrary, illegal, and contrary to the provisions of the law, in confirming the order learned assessing in treating an amount of Rs 5,55,500/- as income of the appellant u/ s 69A of the I T Act and further erred in estimating the income @ 8% on turnover of Rs 17,77,703/- without giving any further opportunity.

5. The very approach of the learned Commissioner of Income-tax (Appeals) /NFAC in passing an order u/s250 ex-party without giving any proper opportunity to confirm the action of the Assessing officer in determining the total income at 6,86,584/- without giving any proper opportunity, is illegal arbitrary, without assigning any valid reasons, and is perverse, highhanded is contrary to the provisions law, therefore the order passed by the Learned Commissioner of Income dated 29-02-2024 DIN & Order No: ITBA/APL/S/250/2023-24/1061721385(1) is illegal exfacie and violative of principals of natural justice.

6. The learned Commissioner of Income-tax (Appeals) erred in confirming the action of the assessing officer in making addition of Rs.6,86,584/- by invoking the provisions of Sec.69A rws 115BBE of the I.T.Act.”

3. The brief facts of the case are that assessee was found to have made aggregate cash deposits of Rs.11,09,836/- in his bank accounts during the period of demonetization from 08-11-2016 to 30-12-2016. From the copies of the statements of State Bank of India, Vazirabad Branch maintained by the assessee, it was found that the assessee had made cash deposits to the tune of Rs.5,55,500/- during the demonetization period. Further it was verified that the assessee has total credits of Rs.23,33,203/- in all the bank accounts for FY 2016-17 and that assessee was engaged in the business of retail trade during the FY 2016-17 relevant to AY 2017-18. A copy of Form 26AS and ITS details of the assessee were also obtained and verified.

3.1. Subsequently, a notice u/s 142(1) was issued to the assessee, however, he has not made any submissions in response to the said notice despite giving sufficient opportunity. Hence, a show cause letter was issued to the assessee. However, there was no response from the assessee to the show-cause letter and hence, finally, Assessing Officer after considering the nature of trade and the pattern of transactions in the bank account of assessee, estimated the business income of the assessee @ 8% on the total other credits in the bank accounts. Accordingly, the business income of the assessee was estimated to be Rs.1,42,216/- (8% of Rs.17,77,703/-) and added to the income of the assessee. Thus, the Assessing Officer completed the assessment u/s 69A of the Act r.w.s. 115BBE of the Act and passed assessment order on 12.05.2023 u/s 147 r.w.s. 144 r.w.s. 144B of the Act and issued penal proceedings u/s 271AA(C)(1) 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 that the assessee has failed to provide necessary information and appear before the lower authorities. Hence, the ld. AR requested the Bench to remand the matter back to the file of Assessing Officer. Ld.AR further submitted that as the assessee has sufficient cause from putting in appearance before the lower authorities, matter may kindly be remitted back to the authorities below for afresh adjudication.

6. Per contra, the ld.DR relied upon the orders of lower authorities.

7 I have heard the rival contentions of both the parties and perused the material available on record and also the orders passed by the lower authorities. On perusal of the impugned order passed by ld.CIT(A), I found that ld.CIT(A) passed order confirming the action of the Assessing Officer. 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 3 to 3.2 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 even after granting several opportunities. In view of the above reasons, in our view, the ends of justice will be met if the matter is remanded back to the file of Assessing Officer 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.2,000/- (Rupees Two 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 be at liberty to file documents, if any, as required for proving his case and the Assessing Officer shall consider the evidence, if any, filed by the assessee. Needless to say the Assessing Officer 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 Assessing Officer 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 Assessing Officer for fresh adjudication. Thus, the grounds of the assessee are allowed for statistical purposes.

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

Order pronounced in the Open Court on 15th October, 2024.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad, dated 15th October, 2024.
TYNM/sps

Copy to:

S.No	Addresses
1	Chittipolu Srinivas, Nalgonda. E-101, Aditya Empress Towers, Shaikpet Nala, Tolichowki, Golconda Post, Telangana – 500008.
2	The Income Tax Officer, Ward – 1, Nalgonda – 500004, Telangana.
3	Pr1.CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order