

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

BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.910/Hyd/2024		
Assessment Year: 2019-20		
Jaladi Geetha Padmaja, Nellore. PAN : ACDPJ9507E (Appellant)	Vs.	The Income Tax Officer, Ward – 1, Nellore. (Respondent)
Assessee by:	None	
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. 2019-20 arises from the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dt.09.02.2024 invoking proceedings under section 147 r.w.s. 144 of the Income Tax Act, 1961 (in short, “the Act”).

2. The appeal filed by the assessee is barred by limitation by 158 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 assessment order passed u/s 144 of the I.T. Act is bad either on the facts of the case or in Law.

2. The AO failed to verify the initial Notices u/s 148A(b),148A(d),148,142(1) and its subsequent letters/Notices till 19/10/2023 were served on the appellant by post or not.

3. The AO failed to cause necessary enquiries with regard to identifying the address of the appellant and serve the notices on her.

4. The AO failed to provide reasonable opportunities to the appellant for submitting her replies and sources for cash deposits and thereby violated the principles of natural justice.

5. Without giving sufficient time except one adjournment, the Assessing Officer has completed the Assessment u/s 144 of the I. T. Act.

6. The AO Officer failed to verify the bank statement and understood the fact that the sources for the cash deposits of Rs. 7,00,000/- are out of earlier cash withdrawal of Rs 11,50,000/ on 18-10-2018.

7. The Ld CIT(Appeals) erred in dismissing the appeal stating that the appellant has not provided any satisfactory explanation for seeking exemption from the operation of Sec.249(4)(b) whereas there is no liability on the part of the appellant for paying any Advance Tax.

8. The CIT (Appeals) erred in dismissing the Misc. Petition without considering the application for exemption of payment of Advance Tax as per proviso to clause b of Sec.249(4) of I.T. Act.”

3. The brief facts of the case are that as per the information available with the Department, Assessing Officer found that assessee has deposited cash to the tune of Rs.35,00,000/- in her savings account maintained with Bank of Baroda and has received Interest income of Rs.60,582/-thereon during the F.Y. 2018-19 relevant to A.Y. 2019-20. Since the assessee has not filed return of income for the A.Y. 2019-20, the source of cash deposit and interest income remained unexplained. Thus, the income from above transaction has not been offered for taxation and has escaped assessment. Hence, the case was reopened u/s 147/148 of the Act on 30/03/2023 and notice u/s 148 of the Act was issued to the assessee for A.Y. 2019-20, however, the same had remained un-complied with by the assessee. In the absence of any reply and supporting documentary evidence by the assessee, the total amount of Rs.7,60,582/- was treated as unexplained money u/s 69A of the I.T. Act and are added back to the total income of assessee. Accordingly, Assessing Officer completed the assessment u/s 69A of the Act and passed assessment order on 29.11.2023 u/s 147 r.w.s. 144 r.w.s. 144B of the Act and thereafter, issued penalty proceedings u/s 271AA(C)(1) of the Act.

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

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6. When the matter was called upon, neither the assessee nor her counsel was present.

7. On the other hand, the ld. DR relied upon the orders of lower authorities.

8. I have heard the ld. DR and perused the material available on record. In this case, though, the assessee was provided several opportunities to provide the nature and source of cash deposits amounting to Rs.7,00,000/- in her saving bank account maintained with Bank of Baroda and interest income of Rs.60,582/- received during the year under consideration, failed to furnish the details / explanation as called for by the Assessing Officer and hence, the Assessing Officer made additions of Rs.7,00,000/- u/s 69A of the Act and Rs.60,582/- as income from other sources and computed the total tax payable at Rs.11,23,840/-, which includes the advance tax payable by the appellant as well as the interest on account of delayed payment of advance tax. On appeal, the ld.CIT(A) observed that appellant has filed column nos.8 and 9 of Form 35 as 'Not Applicable' and hence, issued deficiency letter in the prescribed format on 05.01.2024. Thereafter, based on the reply given by the assessee dt.10.01.2024, ld.CIT(A) dismissed the appeal of assessee as not eligible for admission by holding as under :

“3. Decision :

As per the provisions of the section 249(4)(b) of the Act, the appeal shall not be admitted, unless the appellant has paid an amount equal to the amount of advance tax which was payable by him if no return of income has been filed.

In the present case, the appellant did not file return of income. The AO arrived at the total income of Rs. 7,60,582/- and computed the tax payable at Rs. 11,23,840/- which included the advance tax payable by the appellant. On or before filing the present appeal, the appellant has failed to make the required payment of the amount equal to the amount of advance tax which was payable by him. Further, the appellant neither provided any satisfactory clarification/ explanation in response to the deficiency letter issued by this office nor did he offer any reason, leave alone any good and sufficient reasons, for seeking exemption from the operation of the sec.249(4)(b) even though sufficient opportunities were provided to him.

On careful consideration of the above facts and circumstances, as the appellant has failed to fulfill the necessary conditions for admission of appeal before CIT(A) as per sec. 249(4)(b), the present appeal is liable to be held as not eligible for admission and hence, the appeal is not admitted.”

9. On perusal of the record, it is evident that assessee failed to offer proper clarification as to why she did not pay amount equal to the amount of advance tax as per the provisions of Section 249(4)(b) of the Act, for the reasons best known to her. In view of the above, I am of the view that to meet the ends of justice, the assessee is required to be given one more opportunity to offer proper clarification to the deficiency letter dated 05.01.2024 issued by the Id.CIT(A). In the light of the above, the appeal of the assessee is remanded back to the file Id.CIT(A) with a direction to the assessee to participate in the proceedings before the Id.CIT(A) subject to payment of costs of Rs.2,000/-. (Rupees Two Thousand only) to be deposited in favour of Prime Minister National Relief Fund, which shall be payable within

one month or from the date of receipt of this order or whichever is earlier.

10. Accordingly, the appeal of the assessee is remanded back to the file of Id.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 for furnishing satisfactory clarification in response to the deficiency letter dt.05.01.2024 in accordance with law. The assessee shall be at liberty to file documents, if any, as required for proving her case and the Id.CIT(A) shall consider the evidence, if any, filed by the assessee. Needless to say the Id.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, on satisfaction, the Id.CIT(A) shall admit the appeal and pass a detailed speaking order dealing with the contentions of the assessee. In case, the assessee failed to offer satisfactory explanation for the deficiency letter, then Id.CIT(A) shall pass appropriate orders in accordance with law treating that the appeal is not eligible for admission. 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 Id.CIT(A) for fresh adjudication. Thus, the grounds of the assessee are allowed for statistical purposes.

11. In the result, the appeal of the assessee is treated as 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	Jaladi Geetha Padmaja, R/o.16/2/254, Kasikala Vari Agraharam, Trunk Road, Nellore – 524001, Andhra Pradesh.
2	The Income Tax Officer, Ward – 1, Nellore – 524003, Andhra Pradesh.
3	Pr1.CIT, Tirupati.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order