

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD

BEFORE
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER
&
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / ITA No.795/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2015-16)

Uttam Kumar Challa Vs. Income Tax Officer
Hyderabad Ward-6(1)
[PAN : ADLPC6669H] Hyderabad
अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri P.Vinod, AR
राजस्व द्वारा/Revenue by: Shri Madan Mohan Meena, DR

सुनवाई की तारीख/Date of hearing: 15/10/2024
घोषणा की तारीख/Pronouncement on: 17/10/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 20/08/2024 passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi("Ld. CIT(A)"), in the case of Uttam Kumar Challa ("the assessee") for the assessment year 2015-16, assessee preferred this appeal.

2. Brief facts of the case are that assessment in the case of the assessee was completed and the learned Assessing Officer passed assessment order under section 147 read with section 144 by adding unexplained / unaccounted capital introduced of Rs.1,31,50,000/- as unexplained money u/s 69A of the Income Tax Act, 1961 ("the Act").

3. Aggrieved by the order of the learned Assessing Officer, assessee preferred an appeal before the learned CIT(A) and the learned CIT(A) upheld

the order of the learned Assessing Officer and dismissed the appeal of the assessee ex-parte, holding that the assessee has not made any submission or furnished any evidence and has not discharged the burden of proof to substantiate his claim.

4. Aggrieved by the order of the learned CIT(A), assessee preferred an appeal before us and at the outset, learned AR submitted that the assessee could not comply with the notices due to the fact that the assessee's father suffered with cancer and died ultimately, hence the assessee could not conduct his case effectively and diligently. His main plank of argument is that even in the absence of the assessee since the assessment order is available before the learned CIT(A), learned CIT(A) could have proceeded to advert to the merits of the case and disposed of by referring to the various aspects of merits. He, therefore, submits that the provisions under section 250 (6) of the Income Tax Act, 1961 (for short "the Act") are not complied with.

5. Though the learned DR vehemently relied on the orders of the Revenue authorities, the fact remains that the learned CIT(A) did not refer to the facts nor did he dispose of the appeal on merits. Even in the absence of the assessee, it is always open for the learned CIT(A) to deal with the matter on merits, instead of dismissing the same.

6. As could be seen from the record, we find that the learned CIT(A) disposed-of the appeal ex-parte, observing that various notices have been issued to the assessee, but the assessee failed to comply with any of such notices nor did the assessee produce any documents, explanation and evidence to substantiate the grounds raised.

7. Requirement of law under section 250 (6) of the Act is that the order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision. Even in the absence of the assessee, it is always open for the learned CIT(A) to deal with the matter on merits instead of dismissing the same in limine.

8. Having regard to the facts and circumstances of the case, we are of the considered opinion that the impugned order does not comply with the requirement of Section 250(6) of the Act and cannot be sustained. Learned AR submitted that since the learned Assessing Officer also finalized the assessment under section 144 of the Act, affording an opportunity to the assessee to prosecute his case before the learned Assessing Officer, by submitting the documents/evidence, the highest that would happen is that a cause could be decided on merits. We consider this request reasonable, and it would be in the interest of justice to remit the issue to the file of the learned Assessing Officer for considering the submissions of the assessee and take a fresh view in the matter.

9. With this view of the matter, we set aside the impugned order and restore the issue to the file of the learned Assessing Officer to decide the issue afresh. We direct the assessee to co-operate with the learned Assessing Officer in getting the matter disposed of on merits, without seeking any adjournments and the learned Assessing Officer to take a fresh look at the matter, after affording a reasonable opportunity of being heard to the assessee. Grounds are accordingly treated as allowed for statistical purposes.

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

Order pronounced in the Open Court on 17th October, 2024.

Sd/-

(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,

Dated: 17/10/2024

L.Rama, SPS

Copy forwarded to:

1. Shri Uttam Kumar Challa, 6-3-662/2, Sai Shakti Apartments, Jaffer Ali Bagh, Somajiguda, Hyderabad
2. The Income Tax Officer, Ward-6(1), Hyderabad
3. The Pr.CIT, Hyderabad
4. The DR, ITAT, Hyderabad
5. GUARD File

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD