

आयकर अपीलीयअधिकरण, विशाखापटणम SMC पीठ, विशाखापटणम
IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM **SMC** BENCH, VISAKHAPATNAM

श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य के समक्ष

BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER

आयकर अपील सं./ I.T.A. No.242/Viz/2024
(निर्धारण वर्ष / Assessment Year: 2017-18)

Ramakrishna Angadala, 7-121/B, Veeravalli, Bapulapadu, Krishna District-521110, Andhra Pradesh. PAN: BRWPA7639F (अपीलार्थी/ Appellant)	Vs.	Income Tax Officer, Ward-1, Gudivada.
अपीलार्थी की ओर से/ Appellant by	:	Sri C. Subrahmanyam, AR
प्रत्यार्थी की ओर से / Respondent by	:	Dr. Aparna Villuri, Sr. AR
सुनवाई की तारीख / Date of Hearing	:	08/10/2024
घोषणा की तारीख/Date of Pronouncement	:	23/10/2024

ORDER

PER DUVVURU RL REDDY, Judicial Member :

This appeal filed by the assessee is against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ["Ld.CIT(A)-NFAC"] in DIN & Order No. ITBA/NFAC/S/250/2023-24/1055720475(1), dated 04/09/2023 arising out of the order passed U/s. 144 of the Income Tax Act, 1961 ["the Act"] for the AY 2017-18.

2. At the outset, it is observed from the record available before me that there is a delay of 207 days in filing the appeal before the Tribunal. With respect to belated filing of the appeal, the assessee filed a petition for condonation of delay along with the affidavit and the relevant paras of the affidavit are extracted herein below for reference:

“.....

I am an agriculturist and have no education and studied only third class in Telugu medium and I do not have any knowledge about digital communication. Due to the reason I could not reply to the notices during the assessment proceedings. On receipt of demand I was advised to file an appeal against the order and with the help of a neighbor I have filed appeal. As I was unaware of digital communication I could not reply to the notices issued by Ld.CIT(A), NFAC, Delhi. I have no knowledge of even the order passed by the Ld. CIT(A)-NFAC, Delhi on 04/09/2023. The Income Tax Authorities from Income Tax Department, Gudivada have visited my residence on 22/05/2024 and informed me about the disposal of the appeal. On knowing the fact that my appeal was dismissed, I approached a Tax Consultant and filing the appeal before the Hon'ble Income Tax Appellate Tribunal, Visakhapatnam.

There is a total delay of 267 days in filing the appeal. There is no deliberate or intentional delay on my part in filing the appeal. The delay is due to my ignorance about the income tax proceedings and digital communication. I am an agriculturist and having no education. Hence, I pray the Hon'ble Income Tax Appellate Tribunal, Visakhapatnam to condone the delay and admit the appeal.”

3. On perusal of the explanation given by the assessee with respect to filing of the appeal before the Tribunal beyond the prescribed time limit, I find that the assessee being an illiterate and having no knowledge about the proceedings under the Income Tax Act, the assessee did not respond to the notices issued during the assessment proceedings as well as the assessee

could not file the appeal before the Tribunal within the prescribed time limit. Therefore, I am of the opinion that the reasons advanced by the assessee for belated filing of the appeal constitute a reasonable and sufficient cause that prevented the assessee to file the appeal beyond the stipulated time. Hence, I hereby condone the delay of 207 days in filing the appeal of the assessee before the Tribunal and proceed to adjudicate the appeal on merits.

4. Briefly stated the facts of the case are that the assessee is an individual. For the AY 2017-18, the assessee did not file his return of income. As per the information available with the Department, the Ld. AO observed that the assessee has made cash deposits during demonetization period in his bank account in State Bank of India amounting to Rs. 15,06,810/-. Thereafter, the Ld. AO issued a notice U/s. 142(1) of the Act on 19/08/2019 to the assessee calling for return of income for the AY 2017-18. However, the assessee has not responded to the notice and did not file the return as called for. Subsequently, a show cause notice dated 19/09/2019 was issued to the assessee and called for certain information including the source of cash deposits made during the FY 2016-17. Since there was no compliance by

the assessee to the show cause notice issued, another show cause notice dated 28/10/2019 was issued to the assessee and the assessee was asked to show cause as to why the cash deposits made in the bank should not be brought to tax. In response, the assessee filed a letter dated 07/11/2019 and stated that he has received Rs. 1,15,68,520/- from the Government on acquisition of land for Polavaram Canal on 08/07/2015 and the said amount was withdrawn and utilized for purchase of land in his name and that a part of the amount was also advanced to relatives as hand loans and that the amounts are repaid by the relatives to the tune of Rs. 15,06,810/- and the same was deposited between 09/11/2016 to 30/12/2016. Thus, the assessee requested the Ld. AO to drop the proceedings since the sources are explained. In the meantime, the Ld. AO obtained the information from the respective banks by invoking the provisions of section 133(6) of the Act. On perusal of the material before him, the Ld. AO issued another show cause notice dated 20/11/2019 wherein the assessee was asked as to why the cash deposits of Rs. 15,06,810/- should not be treated as unexplained income U/s. 69A of the Act in the absence of documentary evidence to substantiate the claim of the assessee. Vide the show case notice dated 20/11/2019, the assessee was also asked to

furnish various details. However, in the absence of any details / documentary evidence in support of the assessee's claim, the Ld. AO observed that the assessee has discharged his primary onus of explaining the cash deposits during demonetization period though failed to prove the sources of cash deposits as claimed by him with confirmations / evidence. Accordingly, the Ld. AO completed the assessment U/s. 144 of the Act, dated 26/12/2019 and made addition of Rs. 15,06,810/- U/s. 69A r.w.s 115BBE of the Act under the head income from other sources. The Ld. AO also initiated the penalty proceedings while passing the assessment order. Aggrieved by the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A)-NFAC.

5. On appeal, since there was no response from the assessee with respect to the hearing notices issued and in the absence of any representation on behalf of the assessee, the Ld. CIT(A)-NFAC passed the order ex-parte and dismissed the assessee's appeal. Aggrieved by the order of the Ld. CIT(A)-NFAC, the assessee is in appeal before the Tribunal by raising the following modified grounds of appeal:

- "1. Under the facts and circumstances of the case, the orders passed U/s. 144 of the Act dated 26/12/2019 by the ITO, Ward-1, Gudivada and upheld by the Ld. CIT(A), NFAC*

- Delhi vide order U/s. 250 of the Act dated 04/09/2023 are contrary to the facts of the case and provisions of law.*
2. *The Ld. CIT(A) without giving reasonable opportunity dismissed the case, ex-parte, thus violated the principles of natural justice.*
 3. *The Ld. CIT(A), NFAC, Delhi erred in upholding the addition of Rs. 15,06,810/- U/s. 69A, the alleged unexplained cash deposits, without considering the fact that the assessee has explainable sources of which AO also summarily rejected.*
 4. *For these and other reasons that are to be urged at the time of hearing the appellant prays the addition made may kindly be deleted.”*

Further, the assessee has also raised additional ground of appeal which read as under:

“The Ld. AO failed to issue a notice U/s. 143(2) of the Income Tax Act, which is a jurisdictional requirement. In the absence of this notice, the consequential assessment order passed U/s. section 144 of the Income Tax Act is null and void and liable to be quashed.”

6. At the outset, the Ld. Authorized Representative [“Ld. AR”] submitted before me that the Ld. CIT (A)-NFAC has passed ex-parte order without providing proper opportunity to the assessee of being heard. The Ld. AR further submitted that the assessee being an illiterate and having no knowledge about the proceedings under the Income Tax Act, the assessee did not respond to the notices issued by the Ld. Revenue Authorities and could not even file the appeal before the Tribunal within the stipulated time. It was therefore pleaded that the matter may be remitted back to the file of the Ld CIT (A)-

NFAC in order to provide one more opportunity to the assessee of being heard.

7. Ld. Departmental Representative ["Ld. DR"], on the other hand, vehemently opposed to the submissions of the Ld. AR and argued that several opportunities had been provided to the assessee however, on the given dates of hearing, neither the assessee nor his Representative has responded to the notices issued nor filed any details / submissions as called for by the Ld. CIT (A)-NFAC. It was further submitted that, under these circumstances, the Ld. CIT (A)-NFAC had no other option but to pass ex-parte order based on the materials available on record. Hence, it was pleaded that the order passed by the Ld. CIT(A)-NFAC does not call for any interference.

8. I have heard both the sides and carefully perused the materials available on record. On examining the facts of the case, I find that the Ld. CIT (A)-NFAC had posted the case on several occasions. However, there was no response on behalf of the assessee before the Ld. CIT(A)-NFAC on the dates of hearing with regard to the details / submissions as called for by the Ld. CIT(A)-NFAC. Therefore, the Ld. CIT (A)-NFAC was left with no other option except to adjudicate the appeal ex-parte and dismissed the appeal by confirming the addition made by the Ld. AO. Further, I have also noticed that the Ld. AO also passed the assessment

order U/s. 144 of the Act as there was no response to the notices issued to the assessee. Before me it was the contention of the assessee that the assessee has not received any notices / intimation about the disposal of the appeals by the Ld. Revenue Authorities. The Ld. AR further submitted that the assessee being an illiterate and having no knowledge about the proceedings under the Income Tax Act, the assessee did not respond to the notices issued by the Ld. Revenue Authorities and could not even file the appeal before the Tribunal within the stipulated time. In this situation, considering the facts and circumstances of the case and considering the issues involved in the appeal, as well as considering the prayer of the Ld. AR, in the interest of justice, strictly following the principles of natural justice, I hereby remit the matter back to the file of Ld. CIT (A)-NFAC in order to consider the appeal afresh and decide the case on merits by providing one more opportunity to the assessee of being heard in accordance with the principles of natural justice. At the same breath, I also hereby caution the assessee to promptly co-operate before the Ld. CIT (A)-NFAC in the proceedings failing which the Ld. CIT (A)-NFAC shall be at liberty to pass appropriate order in accordance with law and merits based on the materials available on the record. It is ordered accordingly.

9. In the result, appeal filed by the assessee is allowed for statistical purposes as indicated hereinabove.

Pronounced in the open Court on 23rd October, 2024.

Sd/-
(दुव्वूरु आर.एल रेड्डी)
(DUVVURU RL REDDY)
न्यायिकसदस्य/JUDICIAL MEMBER

Dated :23/10/2024
OKK - SPS

आदेश की प्रतिलिपि अग्रेषित /Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee – Ramakrishna Angadala, 7-121/B, Veeravalli, Bapulapadu, Krishna-521110, Andhra Pradesh.
2. राजस्व/The Revenue – Income Tax Officer, Ward-1, Gudivada, Andhra Pradesh.
3. The Principal Commissioner of Income Tax,
4. आयकर आयुक्त (अपील)/ The Commissioner of Income Tax (Appeals),
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/ DR, ITAT, Visakhapatnam
- 6.गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam