

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE “A” BENCH, BANGALORE**

**Before Shri George George K., Vice President
and
Ms. Padmavathy S., Accountant Member**

ITA No. 1798/Bang/2024
(Assessment Year: 2013-14)

Smt. Geetha Chukkaluru No.58/1,8 th Cross, 12 th Main Raghavanedra Block, Srinagar Bengaluru – 560 050. PAN: AGGPC0170P.	vs.	The Income Tax Officer Ward 1 Bellary.
(Appellant/Applicant)		(Respondent)

Appellant by: Sri.T.Srinivasa, CA
Respondent by: Ms.Neha Sahay, JCIT-DR

Date of Hearing : 28.10.2024	Date of Pronouncement: 28.10.2024
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ORDER

Per: Padmavathy S., A.M.

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [CIT(A)] dated 23.08.2024 for Assessment Year (AY) 2013-14.

2. The assessee has raised the following grounds of appeal: -

“1. The impugned order passed by the learned Commissioner of Income Tax (Appeals) NFAC is highly unjust, arbitrary and contrary to law and the principles of natural justice.

2. The Learned Commissioner of Income Tax is not justified to have unjustly dismissed the appeal due to non -prosecution of the Appeal by the appellant failing to appreciate that the appellant had responded to three of the notices against four notices issued by the learned CIT(A) requested for time vide submissions dated 26th September 2022, 21st August 2023, and

30th November 2023 and that the only occasion of non-submission of the response was relating to the hearing fixed on 20th August 2024.

3. The Commissioner of Income Tax is not justified to have dismissed the appeal without providing one more make her submissions in support of the grounds urged.

4. The impugned order being cryptic in nature and dismissed solely on account of the alleged non-prosecution and without passing speaking order in respect of each of the grounds urged as mandated us 250(6) of the Income Tax Act 1961.

5. The learned Commissioner of Income Tax (Appeals) NFAC ought to have followed the law declared on the issue as declared in the following cases.

(i) Commissioner of Income-tax (Central) Nagpur

Vs Premkumar Arjundas Luthra (HUF) (HC-BOM)

(ii) Jade Granite Industries Vs ITO - ITA No 81/ Ahmd/2024 (ITAT-AHMD)

For the above grounds and such other grounds that may be urged at the time of hearing with kind permission, the Appellant most humbly pray and submit that the appeal may kindly be allowed in the interest of justice.”

3. The assessee, an individual, and did not file the return of income for AY 2013-14. The assessing officer (AO) based on the information received from DDIT (Inv) noticed that during the year under consideration, one Mr. Manjunatha Reddy has repaid a loan of Rs.2,57,30,056 to the assessee. The AO reopened the assessment by issuing notice u/s.148 of the Income Tax Act (the Act). In response to the notice, the assessee filed the return of income admitting an income of Rs.3,35,450. The AO issued various notices to the assessee calling for details. Since the assessee has not responded to the notices, the AO completed the assessment u/s.144 r.w.s.147 of the Act assessing the income at Rs.2,62,46,936/

4. Aggrieved the assessee preferred an appeal before the CIT(A). For the reason that the assessee did not respond to the notices, the CIT appeals, dismissed the appeal exparte confirming the addition and without adjudicating

the impugned issues on merits. The assessee is in appeal before the Tribunal against the order of the CIT(A).

5. We have heard the rival contentions and perused the material on record. The assessment was reopened u/s.147 for the reason that there is a repayment of loan to the assessee and that the assessee has not filed the return of income. The assessee filed the return of income in response to the notice u/s.148 of the Act. However, the AO completed the assessment u/s.144 r.w.s.147 as there was no representation by the assessee before the AO and that no documentary evidences were received. The CIT(A) also passed an exparte order stating that the assessee did not respond to the notices and while dismissing the appeal the CIT(A), did not consider the issue on merits. The ld AR during the course of hearing submitted that the assessee has filed letters in response to the notices issued by the CIT(A) seeking time to collate and file the necessary documents. The ld AR in this regard submitted the letters of adjournment filed before the CIT(A) to substantiate the claim. It was argued by the ld AR that the CIT(A) failed to consider the adjournment letters filed by the assessee and has passed the exparte order stating that the assessee did not respond. The ld AR also submitted that the assessee could not represent the case properly before the AO and therefore prayed for one more opportunity before the lower authorities. Considering the facts peculiar to the case and in the interest of justice and fair play we are inclined to give one more opportunity to the assessee to represent the case on merits before the lower authorities. Accordingly, we remit the appeal back to the AO with a direction to call for necessary details in connection with the impugned additions made and decide on merits in accordance with law. The assessee is directed to furnish the details as may be called for by the AO without seeking adjournments and cooperate with the assessment proceedings. It is ordered accordingly.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 28th October, 2024.

Sd/-
(George George K.)
Vice President

Sd/-
(Padmavathy S.)
Accountant Member

Bengaluru, Dated: 28th October, 2024
n.p.

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT, concerned*
4. *The DR, ITAT, Bangalore*
5. *Guard File*

By Order

//True Copy//

Assistant Registrar
ITAT, Bangalore