

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' Bench, Hyderabad

Before Shri Manjunatha, G. Accountant Member and
Shri K. Narasimha Chary, Judicial Member

आ.अपी.सं / **ITA No.878/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2016-17)

Shri Bodepudi Hari Babu Hyderabad PAN:AAFHB0082E (Appellant)	Vs.	Income Tax Officer Ward 8(1) Hyderabad (Respondent)
निर्धारित द्वारा / Assessee by:	Shri K.A. Sai Prasad, CA	
राजस्व द्वारा / Revenue by:	Shri K.N. Suresh Baby, DR	
सुनवाई की तारीख / Date of hearing:	05/11/2024	
घोषणा की तारीख / Pronouncement:	05/11/2024	

आदेश/ORDER

Per Manjunatha, G. A.M

This appeal filed by the assessee is directed against the order dated 08/07/2024 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2016-17.

2. The brief facts of the case are that the assessee has not filed return of income for the A.Y 2016-17. The assessee has sold an immovable property for Rs.5,05,00,000/- during the financial year 2015-16 relevant to A.Y 2016-17. Accordingly,

notice u/s 148 of the I.T. Act, 1961 was issued and served upon the assessee. Thereafter, statutory notices u/s 142(1) dated 26/09/2023 and 20/11/2023 were issued and served to the assessee for compliance. During the course of assessment proceedings, the Assessing Officer provided number of opportunities to the assessee to furnish requisite details with evidence to substantiate his case. Since the assessee failed to comply with the notices issued by the Department, the Assessing Officer completed the assessment u/s 147 r.w.s. 144B of the I.T. Act, 1961 and penalty proceedings u/s 271(1)(c) u/s 271F of the I.T. Act, 1961 and penalty u/s 271(1)(b) of the Act, were initiated separately.

3. Before the learned CIT (A) also, the assessee failed to respond to the notices issued and served upon the assessee. The learned CIT (A) issued a defective notice u/s 250 and sent to the email address of the appellant. Since the assessee failed to rectify the defects, the learned CIT (A) dismissed the appeal filed by the assessee.

4. The learned Counsel for the assessee submitted that the learned CIT (A) is erred in dismissing the appeal without adjudicating the case on merits, by simply stating that there was a defect in filing Form 35, even though there was no defect in the Form-35 filed. The learned Counsel for the assessee also submitted that the learned CIT (A) passed the order without

considering the grounds of appeal filed and without providing sufficient opportunities of being heard.

5. The learned DR, on the other hand, submitted that since the assessee failed to comply with the statutory notices issued by the Assessing Officer as well as the learned CIT (A), hence the order of the learned CIT (A) should be upheld and the grounds raised by the assessee should be dismissed.

6. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. Admittedly, the assessment proceedings before the Assessing Officer is ex-parte, because none appeared nor filed any details even though the Assessing Officer has given number of opportunities to file relevant evidences. Before the learned CIT (A), the assessee did not file relevant details when the learned CIT (A) issued a defective notice on 15/04/2024 requesting to rectify the defects. Since the assessee has not filed any details, the learned CIT (A) dismissed the appeal filed by the assessee for defects, however, does not adjudicate the issues on merits. The learned Counsel for the assessee explained that the documents sought by the learned CIT (A) by way of defective notice dated 15/04/2024 has already been submitted along with appeal memo filed before the first appellate authority. Therefore, the learned CIT (A) ought to have considered the relevant details and passed the order. We find that in the defective notice dated 15/04/2024, the learned

CIT (A) directed the assessee to file Form-35, the grounds of appeal etc. The appellant had filed physical copy of Form 35 downloaded from the Income Tax Website and as per the said form, the grounds of appeal has been narrated in Col13 of Form 35. From the above, it is undisputedly clear that whatever the details sought by the learned CIT (A) are already on record before the first appellate authority. Therefore, in our considered view, the learned CIT (A) ought to have considered relevant details and decided the appeal on merit. Since the learned CIT (A) dismissed the appeal on technical grounds of not rectifying the defects, in our considered view, the matter needs to go back to the file of the learned CIT (A) to give one more opportunity of being heard to the assessee. Thus, we set aside the order of the learned CIT (A) and restore the issue back to the file of the learned CIT (A) for fresh adjudication. Needless to say, the assessee shall file all the necessary details as and when called for by the first appellate authority to enable them to dispose of the appeal.

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

Order pronounced in the Open Court on 5th November, 2024.

Sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Sd/-

(MANJUNATHA, G.)
ACCOUNTANT MEMBER

Hyderabad, dated 5th November, 2024

Vinodan/sps

Copy to:

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1	Shri Bodepudi Hari Babu, c/o Katrapati & Associates, 1-1-298/2/B/3 Sowbhagya Avenue Apts, 1st Floor, Ashoknagar, Street No.1 Secunderabad 500020 &associates
2	Income Tax Officer Ward 8(1) Signature Towers, Gachibowli, Hyderabad
3	Pr. CIT – Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order