

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.442/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2017-18)

Harish Vanam Warangal [PAN : AIVPV5523G]	Vs. ITO, Ward-3 Warangal
अपीलार्थी / Appellant	प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri Kumar Pal Tated, Ld.AR
राजस्व द्वारा/Revenue by: Shri Madan Mohan Meena, DR

सुनवाई की तारीख/Date of hearing: 23/10/2024
घोषणा की तारीख/Pronouncement on: 20/11/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 03/04/2024 passed by the learned Commissioner of Income Tax (Appeals), Chandigarh ("learned CIT(A)"), in the case of Harish Vanam ("the assessee") for the assessment year 2017-18, assessee preferred this appeal.

2. Brief facts of the case are that the assessee had deposited cash of Rs.43,95,400/- in bank accounts during the demonetization period. Assessee had not filed any return of income for the assessment year 2017-18. Hence, notice under section 142(1) of the Income tax Act, 1961 ("the Act") was issued and served on the assessee to furnish the return of income. In response to which, the assessee filed return of income admitting total income of Rs.5,66,140/-, however, the learned Assessing Officer treated the

same as invalid as it was filed after the due date as per notice under section 142(1) dated 27/11/2017. From the information obtained from third parties during assessment proceedings under section 133(6) of the Act, that the assessee deposited cash of Rs.2,39,48,720/-, notices u/s 142(1) were issued to the assessee to explain the source for the cash deposit, in response to which, the assessee stated that cash deposit of Rs.44.94 lakhs in his bank account during the demonetization period were sourced from the collections from customers for ticket reservations and other online bookings viz., TTD Seva, Shiridi Sai Darsha, e-wallet recharges, mobile and DTH recharge services, electricity bill payments, cinema ticket bookings and other online remittances at the behest of customers. Learned AR further stated that the assessee made payment to the tune of Rs.55.42 lakhs to vendors like IRCTC, flight bookings etc.

3. On verification of the bank account ledger furnished by the assessee, the learned Assessing Officer noted that only computation of total income, bank account statement entry wise narration was furnished, but the assessee neither furnished the documentary evidence in support of his submissions nor produced any books of accounts for verification. Hence, the learned Assessing Officer completed the assessment and passed order under section 144 of the Act, by making addition of Rs.43,95,400/- as unexplained money to be taxed under section 115BBE of the Act @60%.

4. Aggrieved by the order of the learned Assessing Officer, assessee filed an appeal before the learned CIT(A) and the learned CIT(A) confirmed the addition made by the learned Assessing Officer and dismissed the appeal filed by the assessee. Further, the learned CIT(A) enhanced the estimation made by the learned Assessing Officer from 4% to 8% of total credits and directed the learned Assessing Officer to add Rs.15,64,266/- as business income of the assessee.

5. Against which, the assessee preferred an appeal before the Tribunal and the learned AR contended that the Revenue authorities are not justified in treating the cash deposited as unexplained money under section 69 of the Act without giving reasonable opportunity of being heard to the assessee to prove that the same pertains to business operations namely, collections from

customers for ticket reservations and other online bookings like TTD seva, Shiridi Sai Darshan, e-wallet recharges, mobile and DTH recharge services, electricity bill payments, cinema ticket bookings and other online transactions. He, therefore, pleaded for an opportunity of being heard before the Revenue authorities to rebut the findings of the Assessing Officer and prove its claim in the interest of justice.

6. Per contra, learned DR submitted that the assessee was given sufficient opportunities to prove his claim, but he did not avail the same. He, therefore, pleaded to uphold the order passed by the learned CIT(A) and dismiss the appeal filed by the assessee.

7. We have heard the rival parties in the light of the submissions made on either side and also gone through the material available on record. It is undisputed fact that the assessee is carrying on the business of travel agency in the name of M/s Srija Tours and travels and also derives commission income from flight and train tickets reservation. The only contention of the learned AR is that the assessee was not given reasonable opportunity of being heard before the Revenue authorities to substantiate his claim with corroborative material evidences. 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.

8. 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.

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

Order pronounced in the Open Court on 20th November, 2024.

Sd/-

(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,

Dated: 20/11/2024

L.Rama, SPS

Copy forwarded to:

1. Harish Vanam, H.No.18-5-63, Kareemabad, Warangal
2. The Income Tax Officer, Ward-3, Warangal
3. The Pr.CIT, Hyderabad
4. The DR, ITAT, Hyderabad
5. GUARD File

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ITAT, HYDERABAD