

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER

ITA No.1576/Bang/2024
Assessment year : 2017-18

S.A.S. Traders, Ward No.15, Khata No.916/716, Bye Pass Road, N.H.-4, Kolar – 563 101. PAN : ACGFS 2211M	Vs.	The Income Tax Officer, Ward 1, Kolar – 563 101.
APPELLANT		RESPONDENT

Appellant by	:	Shri R. Chandrashekar, Advocate
Respondent by	:	Shri Subramanian, S., Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	24.10.2024
Date of Pronouncement	:	25.11.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the order dated 23.02.2024 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2017-18 dismissing the appeal as unadmitted in view of provisions of section 249(4) of the Act.

2. Briefly stated the facts of the case are that as per AIR information, the assessee made cash deposits totalling to Rs.4,10,38,840 in his current account with Bank of Baroda, Kolar. No

return of income was filed offering any income to tax. Notice u/s. 148 was issued to the assessee, but no return was filed. Notice u/s. 142(1) was issued which was also not replied. A show cause notice was issued on 07.03.2022 intimating ex-parte assessment. The assessee in reply dated 22.03.2022 made submissions and furnished only statement of computation of income and unaudited copy of balance sheet and Profit & Loss Account. The AO observed that assessee has not produced any purchase bills, sales bills, cash book, etc. to prove the business of trading in vegetables and had never filed its return of income. Since there was no plausible explanation from assessee, the AO brought to tax the entire cash deposits as unexplained money u/s. 69A r.w.s. 115BBE of the Act. Aggrieved from the above order, the assessee filed appeal before the First Appellate Authority (FAA).

3. The Id. FAA observed that the assessee has not filed return of income and not paid the tax. He applied provisions of section 249(4) and dismissed the appeal as unadmitted. Aggrieved, the assessee is in appeal before the ITAT.

4. The Id. AR submitted that assessee is in the business of trading in vegetables and before this assessment year, the assessee had not filed any return of income since the income was below the taxable limit. Therefore the provisions of section 249(4) will not apply to the case of the assessee. He further submitted that he was not aware of the income-tax proceedings and it was Covid-19 period, so proper representation could not be made before the AO. The AO has

considered the entire cash deposits in the bank account as income of the assessee for the year under consideration u/s 69A of the Act. The CIT(Appeals) has not admitted the appeal of the assessee and the reason for the same is completely wrong. He has to decide the issue on merits also.

5. On the other hand, the Id. DR relied on the order of the lower authorities and submitted that assessee has deposited substantial amount of cash in his bank account of Rs.4.10 crores, still he did not file return of income. He also not represented properly during the course of assessment proceedings. He could not produce the purchase bill, sale bill, books of accounts, bank statements, source and utilisation of bank deposits and evidence in support of the transactions carried out by the assessee. The Id. CIT(A) has rightly dismissed the appeal of the assessee since the assessee did not comply payment of advance tax.

6. Considering the rival submissions, we note that the case was reopened after issuing notice u/s. 148. Various opportunities were granted to the assessee, but the assessee did not file return of income and he filed written submissions only on 22.03.2022. We note that assessee is engaged in the business of agricultural produce like vegetables, purchase from farmers and selling to different vegetable purchasers in the markets on commission basis. During the reassessment proceedings, the assessee has filed unaudited trading Profit & Loss account, but other evidence was not filed.

7. The AO has noted that assessee is in the business of trading in vegetables. The AO has considered the entire bank deposit as income u/s 69A of the I. T. Act. However, the Id. CIT(Appeals) has dismissed the appeal on the premise that assessee has not complied the provisions of section 249(4) of the Act. It was noted from the submissions of the Id. AR that the assessee had not filled return of income earlier. During the course of hearing the Id. AR of the assessee requested that the matter may be remitted back to AO for fresh examination and undertook that the assessee will comply the notices of the revenue authorities. A similar issue has been decided by the co-ordinate bench of the ITAT Raipur Bench in the case Vishnusharan Chandravanshi v. Income-tax Officer in IT Appeal No. 73 (RPR) OF 2024 [Assessment Year 2017-18] order dated APRIL 10, 2024 of [2024] reported in 161 taxmann.com 803 (Raipur - Trib.). Considering the prayer of the assessee and in the interest of justice, we remit the issue back to the Assessing Officer for de novo reassessment in accordance with law, subject to payment of cost of Rs.25,000/- (Rupees Twenty Five Thousand Only) and assessee is directed to produce the proof of payment of costs before the AO. The assessee is also directed to file necessary documents that would be essential and required for substantiating his case and for proper adjudication by the revenue authorities. Needless to say that reasonable opportunity of being heard be given to the assessee. The assessee is directed to cooperate with the proceedings and in case of further default, the assessee shall not be entitled to any leniency.

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

Pronounced in the open court on this 25th day of November, 2024.

Sd/-

(SOUNДАРARAJAN K.)
JUDICIAL MEMBER

Sd/-

(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 25th November, 2024.

/Desai S Murthy/

Copy to:

1. Appellant
2. Respondent
3. Pr.CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.