

आयकर अपीलीय अधिकरण, विशाखापटणमपीठमें
IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM BENCH, VISAKHAPATNAM

BEFORE
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER
&
SHRI S. BALAKRISHNAN, ACCOUNTANT MEMBER

आ.अपी.सं/ ITA No. 248/Viz/2024
(निर्धारणवर्ष/Assessment Year: 2017-18)

Maddi Sudarsana Rao, Income Tax Officer,
Chilakaluripet-522616, Vs. Ward-1(2),
Andhra Pradesh. Guntur.
[PAN : AHHPM2108B]

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri GVN Hari, AR

राजस्व द्वारा/Revenue by: Dr. AparnaVilluri, Sr. AR

सुनवाई की तारीख/Date of hearing: 21/11/2024

घोषणाकी तारीख/Pronouncement on: 05/12/2024

आदेश/ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 27/03/2024 passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ("learned CIT(A)"), in the case of Maddi Sudarsana Rao ("the assessee"), assessee preferred this appeal.

2. Brief facts of the case are that the assessee, proprietor of M/s. Sri Lakshmi Enterprises, is a distributor of ITC Limited having income from house property, income from salary and income from other sources. The assessee filed his return of income for the AY 2017-18 on 24/11/2017 declaring total taxable income of Rs. NIL. Subsequently, the case was selected for scrutiny under CASS to verify "cash deposits during demonetization period". Accordingly, notices U/s. 143(2) and 142(1) of the Act were issued and served on the assessee. In response to the notices, the assessee submitted relevant information through ITBA portal as called for from time to time. During the scrutiny proceedings, the learned Assessing Officer ("learned AO") noticed that the assessee has made cash deposits in his bank accounts during demonetization period to the tune of Rs. 5,35,65,000/-. After considering the explanation submitted by the assessee and on verification of the assessee's books of account, bank statements and sources for cash deposit, the learned AO observed that the assessee has made cash deposit of Rs. 1,02,18,500/- in Specified Bank Notes ("SBNs") and Rs. 4,33,46,500/- in non-specified bank notes. The learned AO also observed that since the assessee has deposited SBNs in excess of opening balance amounting to Rs. 87,89,273/-, the same is treated as unexplained money U/s. 69A of the Act and taxed the same U/s. 115BBE of the Act. Thus, the learned AO determined the total income of the assessee at Rs. 87,89,273/- and passed the assessment order U/s. 143(3) of the Income Tax Act, 1961 ("the Act"), dated 21/12/2019. Aggrieved by the order of the learned AO, the assessee preferred an appeal before the learned CIT(A).

3. On appeal, learned CIT(A) issued notices U/s. 250 of the Act on four occasions i.e., 13/03/2020, 29/12/2020, 21/09/2021 & 18/03/2024. However, the assessee did not respond to the notices issued by the learned CIT(A) and therefore, it was held that since there was no response to the notices issued during the appellate proceedings and in the absence of any written submissions, considering the facts of the case and position of law, the learned AO was justified in making addition of Rs.87,89,273/- as unexplained money U/s. 69A r.w.s 115BBE of the Act.

Thus, the learned CIT(A) dismissed the appeal of the assessee and passed ex-parte order. Aggrieved by the order of the learned CIT(A), the assessee is in appeal before the Tribunal.

4. At the outset, the learned Authorized Representative (“learned AR”) submitted before us that the learned CIT(A) has passed ex-parte order without providing proper opportunity to the assessee of being heard. It was therefore pleaded that the matter may be remitted back to the file of the learned CIT(A) in order to provide one more opportunity to the assessee of being heard.

5. Learned Departmental Representative (“learned DR) on the other hand, vehemently opposed to the submissions of the learned AR and argued that sufficient opportunities had been provided to the assessee however, on the given dates of hearing, neither the assessee nor its Representative filed any information / documentary evidence as called for by the learned CIT(A). It was further submitted that the learned CIT(A) had no other option but to pass ex-parte order based on the material available on record. Hence, it was pleaded that the order passed by the learned CIT(A) does not call for any interference.

6. We have heard the rival submissions and carefully perused the material available on record. On examining the facts of the case, we find that the learned CIT(A) had posted the case on four occasions. However, there was no response on behalf of the assessee before the learned CIT(A) on the given dates of hearing. Therefore, the learned CIT(A) was left with no other option except to adjudicate the appeal ex-parte. On perusal of the learned CIT(A)’s order, we have observed that the learned CIT(A) has issued the last notice U/s. 250 of the Act on 18/03/2024 and requested the assessee to furnish the information on or before 26/03/2024 which shows that there is hardly 07 days for the assessee to furnish the information before the learned CIT(A). Further, the learned CIT(A) has passed the order on 27/03/2024. In our considered opinion, following the principles of natural justice, the learned CIT(A) ought to have given sufficient time or one more opportunity to the assessee to

furnish the information as required by the learned Revenue Authorities. In this situation, we find strength in the arguments advanced by the learned AR. Therefore, considering the prayer of the learned AR, strictly following the principles of natural justice, we hereby remit the matter back to the file of learned CIT(A) in order to consider the appeal afresh on merits by providing one more opportunity to the assessee of being heard. At the same breath, we also hereby caution the assessee to promptly co-operate before the learned CIT(A) in the proceedings failing which the learned CIT(A) shall be at liberty to pass appropriate order in accordance with law and on merits based on the material on the record. It is ordered accordingly.

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

Order pronounced in the open court on this the 05th December, 2024.

Sd/-
(S. BALAKRISHNAN)
ACCOUNTANT MEMBER
Hyderabad, Dated:05/12/2024
OKK

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Copy forwarded to:

1. Maddi Sudarsana Rao, 6-374/6, NRT Centre, Chilakaluripet-522616, Andhra Pradesh.
2. Income Tax Officer, Ward-1(2), Bommidala House, Nagarampalem, Guntur-522001, Andhra Pradesh.
3. Pr.CIT,
4. DR, ITAT, Visakhapatnam.
5. GUARD FILE.

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam