

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “SMC”, HYDERABAD**

BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.990/Hyd/2024		
Assessment Year: 2017-18		
Ramesh Kamadula, Hyderabad. PAN : DERP3108H (Appellant)	Vs.	The Income Tax Officer, Ward – 9(3), Hyderabad. (Respondent)
Assessee by:	Shri G. Venkata Nagaraju, CA	
Revenue by:	Ms. V. Koteswaramma, Sr.DR	
Date of hearing:	22.10.2024	
Date of pronouncement:	23.10.2024	

ORDER

PER LALIET KUMAR, J.M.

The appeal of the assessee for A.Y. 2017-18 arises from the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dt.05.01.2024 invoking proceedings under section 144 of the Income Tax Act, 1961 (in short, “the Act”).

2. The appeal filed by the assessee is barred by limitation by 178 days. The appellant has moved a condonation petition explaining reasons thereof. I have heard both the parties on this preliminary issue. Having regard to the reasons given in the petition, I condone the delay and admit the appeal for hearing.

2.1 The grounds raised by the assessee read as under :

“1. The order passed by the Assessing officer and confirmed by learned National Faceless Appeal Centre (NFAC) Delhi is bad on facts and in law in as much as it suffers from the vice of violation of the principles of natural justice and denial of opportunity of being heard, rendering the assessment void ab initio.

2. On the facts and in the circumstances of the case and in law, the ld. NFAC has grossly erred in dismissing the appeal on the ground of delay in filing the appeal, without verifying whether the notices were served upon the appellant or not.

3. The ld. Commissioner of Income tax (Appeal), NFAC, Delhi had passed the order on delay without going into the facts of the case.

4. The ld. AO has erred in finalizing the assessment without verifying the facts of the case and without making calling for any bank account under sec. 133(6) of the IT Act. The ld. AO has also failed to appreciate the fact that there are withdrawals in the bank account against the deposits.

5. The ld. CIT(A) has erred in upholding the addition made by the AO under deposits as unexplained money under sec. 69A without considering the withdrawals of the appellant's in the same bank account.

6. The ld. CIT(A) erred in appreciating the fact that the amounts deposited in bank account are the receipts from the business which were disclosed in the P & L account as turnover.

7. The ld. CIT(A) has also failed to consider the withdrawals from the same savings bank account being expenditure for the business carried out during the year, since the nature of business is cash transactions only.”

3. The brief facts of the case are that on verification of the information available with the Department, it was found that the assessee has credited cash of Rs.10,00,000/- in State Bank of India, L.B.Nagar Branch, Hyderabad and cash of Rs.2,50,000/- in ICICI Bank, L.B.Nagar, Hyderabad during the period of demonetization for the FY 2016-17 relevant to A.Y. 2017-18. Assessing Officer further found that assessee has not filed the return of income for the year under consideration and hence, notice u/s 142(1) of the Act dt.09.03.2018 was issued to the assessee and also afforded several opportunities to the assessee to explain the source for making such cash deposits. Even after issuing show cause notice including a final opportunity letter, assessee chose not to respond, hence, Assessing Officer completed the assessment u/s 144 of the Act treating the total deposits of Rs.12,50,000/- as unexplained money u/s 69A r.w.s. 115BBE of the Income Tax Act, 1961 and passed assessment order u/s 144 of the Act on 06.12.2019.

4. Feeling aggrieved with the order of Assessing Officer, assessee filed an appeal before the Id.CIT(A), NFAC, Delhi, who dismissed the appeal of assessee.

5. Before me, the learned AR submitted that the assessee is doing a hair scrap business and that there was a meagre margin in that line of business and as there was no profit in the business, the assessee has not filed the return of income. The Id.AR further submitted that previously on different dates, the assessee has withdrawn money from his bank account by various modes and the same itself was re-deposited in bank accounts due to demonetization.

The ld.AR further submitted that all the notices issued by the department, including the final opportunity letter and said show cause notice were not at all served upon the assessee and that Assessing Officer has wrongly made the addition of Rs.12,50,000/- without appreciating the facts of the case.

6. Per contra, the ld.DR relied upon the orders of lower authorities.

7. I have heard the rival contentions of both the parties and perused the material available on record. From the bank statements of assessee from 28.12.2016 to 31.03.2017 obtained u/s 133(6) of the Act, it was found that more than rupees one crore was deposited in his account. The ld.AR submitted before me that the notices sent by the lower authorities were not at all served upon the assessee and that the assessee has withdrawn money from the bank accounts by various modes and that due to demonetization, the cash so withdrawn was re-deposited in the bank account. In the present case, it was found that the assessee continues to receive hair scrap and make the payments for purchase of the same to the unregistered vendors in cash. It is not the case that the cash was available with the assessee for purpose of depositing the same in his bank accounts rather it is the case of the assessee before me that assessee was purchasing hair scrap from small traders and thereafter, selling the same to the wholesalers. Though the assessee's contention that the wholesalers purchasing hair scrap from him were paying by cheque is accepted as correct for a moment, but the assessee neither produced the list of traders from whom he was purchasing the hair

scrap nor the list of wholesalers to whom he was selling it either before the lower authorities or before me. Considering the totality of the circumstances, I feel it is appropriate to confirm the addition to an extent of Rs.6,00,000/- out of Rs.12,50,000/-. Accordingly, the remaining amount of Rs.6,50,000/- is deleted. Thus, the appeal of the assessee is partly allowed.

8. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the Open Court on 23rd October, 2024.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad, dated 23rd October, 2024.

TYNM/sps

Copy to:

S.No	Addresses
1	Ramesh Kamadula, Plot No.31, Gunti Jangaiah Nagar Colony, L.B. Nagar, Hyderabad – 500074, Telangana.
2	The Income Tax Officer, Ward – 9(3), Hyderabad.
3	Pr1.CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order