

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.1112/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2017-18)

Seema Jain Hyderabad [PAN : AFNPJ4732N]	Vs.	ITO, Ward-8(1) Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	Shri S.Venkateswarlu, AR	
राजस्व द्वारा / Revenue by::	Shri R.Kumaran, DR	
सुनवाई की तारीख / Date of hearing:	18/12/2024	
घोषणा की तारीख / Date of Pronouncement:	30/12/2024	

आदेश / ORDER

PER. MANJUNATHA G., A.M:

This appeal filed by the assessee is directed against the order dated 27.08.2024 of the learned Commissioner of Income Tax (Appeals) [Ld.CIT(A)], National Faceless Appeal Centre, Delhi, pertaining to A.Y.2017-18.

2. The brief facts of the case are that the assessee is carrying on the business of trading in jewellery and also job work for her customers, filed her return of income for the A.Y.2017-18 on 12.09.2017, declaring total income of Rs.13,09,720/- The assessment has been completed u/s 143(3) of the Income tax

Act, 1961 ("the Act") on 30.12.2019, determining total income of Rs.3,41,55,960/- by making addition to the tune of Rs.3,30,90,993/- u/s 69A of the Act as unexplained money towards cash deposit and also disallowance of certain expenses u/s 40(a)(ia) of Rs.13,04,987/-. The assessee filed appeal against the assessment order on 13.01.2020 and the appeal filed by the assessee has not been disposed off by the first appellate authority. Meanwhile, the assessee has filed petition u/s 154 of the Act on 01.02.2020 before the Assessing Officer, stating that the addition of Rs.3,17,86,006/- was taxed twice. The Assessing Officer vide order u/s 154 of the Act dated 28.12.2021 rejected the petition, stating that there was no mistake apparent from record for rectification.

3. Aggrieved by the order passed by the Assessing Officer u/s 154 of the Act, the assessee filed appeal before the CIT(A). The Ld.CIT(A) vide order u/s 250 of the Act dated 27.08.2024 vide paras 4.5 to 4.7 allowed the contention of the assessee, stating that the request for rectification involves a simple arithmetic and therefore the rejection of the assessee's plea that it is not a mistake apparent from record is unjustified. The Ld.CIT(A) further observed that when the purported sales were treated as bogus, it has to be necessarily reduced from the gross turnover reported by the assessee in the financials for the year and therefore, the findings of the Assessing Officer in this regard while rejecting the corresponding request of the assessee, in the order passed u/s 154 dated 28.12.2021 is unsustainable and hence, the ground of the assessee is allowed. However, the Ld.CIT(A) went on to discuss the issue, where he had discussed

the purported addition made towards sales to the extent of Rs.3,17,86,006/- is bogus or genuine, even though the assessee has not challenged the issue before the Ld.CIT(A).

4. The Ld.Counsel for the assessee, Shri S.Venkateswarlu, referring to the assessment order passed by the Assessing Officer, subsequent order passed u/s 154 of the Act dated 28.12.2021 and the order of the Ld.CIT(A), more particularly para 4.5 to 4.7, submitted that the Ld.CIT(A) has accepted the fact that the Assessing Officer has erred in rejecting the petition filed by the assessee u/s 154 of the Act, but erred in discussing the issue on merits in para 4.8 and 4.9, even though the assessee has not agitated the issues before the Ld.CIT(A) on appeal filed against the order u/s 154 of the Act, passed by the Assessing Officer. Therefore, he submitted that, the said finding needs to be deleted or expunged from the order of the Ld.CIT(A).

5. The Ld.DR on the other hand, supporting the order of the Ld.CIT(A) submitted that there is no dispute with regard to the fact that the Assessing Officer has made addition of Rs.3,17,86,006/- on the ground that the sales with corresponding purchases is bogus in nature. Therefore, the Ld.CIT(A) has rightly discussed the issue on merits and held that even after exclusion of said turnover from the sales turnover, the profits from the business would not get reduced to such extent as to that of sales turnover and purchase turnover would suitably and proportionately get scaled down. Therefore, there is no error in the findings of the Ld.CIT(A) and their order should be upheld.

6. We have heard both the parties, perused the material on record and gone through the orders of the lower authorities. There is no dispute with regard to the fact that the petition filed by the assessee u/s 154 of the Act has been rejected by the Assessing Officer in the order passed u/s 154 dated 28.12.2021. It is also an admitted fact that the Ld.CIT(A), in principle, agreed with the contention of the assessee, that the Assessing Officer is erred in rejecting the application filed by the assessee u/s 154 of the Act. The only dispute is with regard to findings recorded by the Ld.CIT(A) in para 4.8 and 4.9 of the order dated 27.08.2024. In our considered view, the Ld.CIT(A) having accepted the contention of the assessee that there is merit in the grounds raised by the assessee against the order passed u/s 154 of the Act by the Assessing Officer, but erred in discussing the issue of additions made by the Assessing Officer towards sales to the extent of Rs.3,17,86,006/-, whether it is genuine or bogus in nature, even though the assessee has not raised any grounds on this issue. Therefore, we are of the considered view, that the findings recorded by the Ld.CIT(A) in para 4.8 and 4.9 are beyond the scope of his power, going by the provisions of section 250(1) and corresponding appeal filed by the assessee before the first appellate authority. We, further note that if we do not expunge or delete para 4.8 and 4.9 of the Ld.CIT(A) order, in our considered view, the first appellate authority may be influenced by said findings, while deciding the appeal filed by the assessee against order passed by the Assessing Officer u/s 143(3) of the Act dated 30.12.2019. Thus, we delete or expunge para 4.8 and 4.9 of the order of the Ld.CIT(A) dated 27.08.2024.

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

Order pronounced in the Open Court on 30th December, 2024.

Sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Sd/-

(MANJUNATHA G.)
ACCOUNTANT MEMBER

Hyderabad,
Dated 30th December, 2024
L.Rama, SPS

Copy to:

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1	Ms.Seema Jain, 3-6-237, Suite No.304, Balaji Residency, Himayat Nagar, Street Number 14, Hyderabad
2	The ITO, Ward-8(1), Hyderabad
3	The Pr.CIT, Hyderabad
4	The DR, ITAT Hyderabad Benches
5	Guard File

By Order