

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A", HYDERABAD

BEFORE
SHRI MANJUNATHA .G, ACCOUNTANT MEMBER
&
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 982/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2018-19)

Reshma,
Nalgonda.
[PAN : AVDPR2503F]

Income Tax Officer,
Vs. Ward-1,
Nalgonda.

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri Mohd Afzal, AR

राजस्व द्वारा/Revenue by: Shri Srinath Sadanala, Sr. AR

सुनवाई की तारीख/Date of hearing: 28/11/2024

घोषणा की तारीख/Pronouncement on: 28/11/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 06/08/2024 passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi("learned CIT(A)"), in the case of Reshma ("the assessee"), assessee preferred this appeal.

2. Brief facts of the case are that the assessee is an individual. As per the information available with the Department, the learned Assessing Officer ("learned AO") noticed that the assessee has made certain cash deposits in her

bank account with Punjab National Bank aggregating to Rs. 67,52,140/-. Further, the learned AO also observed that the assessee has not filed her return of income within the due date as per the provisions of section 139(1) of the Income Tax Act, 1961 ("the Act"). Accordingly, after obtaining necessary approval from the competent authority, the learned AO reopened the assessee's case for the AY 2018-19. Subsequently, the learned AO issued notice U/s. 148 of the Act on 20/04/2022 requesting the assessee to file the return of income for the AY 2018-19 within 30 days. However, the assessee did not respond to the notice and has not filed the return of income. Later on, when the case was transferred to the National Faceless Assessment Centre ("NaFAC") statutory notices U/s 142(1) of the Act were issued on 16/01/2024 and 25/02/2024. Further, a show cause notice dated 14/03/2024 was also issued to the assessee and the assessee was requested to furnish the relevant information latest by 25/03/2024. However, there was no response from the assessee. Therefore, the learned AO completed the assessment as "best judgment assessment" following the provisions of section 144 of the Act. While completing the assessment, the learned AO observed that the assessee has failed to establish the source and nature of credit entries appearing in the books of account including the cash deposits pertaining to FY 2017-18 relevant to the AY 2018-19. Accordingly, in the absence of any response from the assessee to the notices issued and also in the absence of any cogent evidence to explain the source for the cash deposits made by the assessee in her bank account, the learned AO invoked the provisions of section 69A of the Act and made addition of Rs. 67,52,140/- as unexplained money. Thus, the Ld. AO determined the assessed income of the assessee at Rs. 67,52,140/- and passed the assessment order U/s. 147 r.w.s 144 of the Act. The learned AO also initiated the penalty proceedings U/s. 271AAC r.w.s 274 of the Act as well as for non-compliance of the notices and for non-filing of the return of income. Aggrieved by the order of the learned AO, the assessee preferred an appeal before the learned CIT(A).

3. On appeal, since there was no response from the assessee to the notices issued, the learned CIT(A) passed *ex-parte* order and dismissed the appeal of the assessee and confirmed the addition made by the learned AO. While dismissing the assessee's appeal, the learned CIT(A) observed as under:

“5. I have carefully gone through the facts of the case. Moreover, all notices were duly served upon the appellant through email. The appellant opted not to respond the notices at the appellate level also for the reason best known to him. No documents were produced before me in support of his GOA or to rebut the assessment order. In view of the above facts, it is clear that the appellant is not interested in prosecuting the present appeal on merits and therefore, in the absence of any evidence to rebut the assessment order, the assessment order is confirmed and accordingly the appeal is dismissed. Moreover, on perusal of the records of the case it is evident that AO has elaborately discussed the facts of the case before coming to the conclusion. Hence, all Grounds of Appeal raised by the appellant are dismissed.”

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 that while filing the appeal before the learned CIT(A), in Form No.35, against the column “whether notices / communication may be sent on email?” the assessee mentioned “No”. Even then, the learned CIT(A) sent the hearing notices through email and therefore, the assessee could not respond to the notices and resultantly, the learned CIT(A) passed ex-parte order. The learned AR also submitted that the learned CIT(A) ought to have sent the notices through speed post when the assessee mentioned “No” to the notices / communication through email in Form No. 35. The learned AR further submitted that while passing the assessment order also, the learned AO did not consider the submissions made by the assessee and passed ex-parte order. Therefore, the learned AR pleaded that the matter may be remitted back to the file of the learned AO in order to provide one more opportunity to the assessee to substantiate its case.

5. On the other hand, learned Departmental Representative (“learned DR”) strongly relied on the orders of the learned Revenue Authorities and submitted that the assessee did not discharge her onus by responding to the notices issued either before the learned AO or before the learned CIT(A). Therefore, the action taken by the learned Revenue Authorities is in accordance with law and their decisions need not be disturbed.

6. We have gone through the record in the light of the submissions made on either side. On a perusal of Form No. 35 filed by the assessee before the learned CIT(A), we noticed that against the column “whether notices / communication may be sent on email?” the assessee mentioned “No”. Even

then, the learned CIT(A) sent the hearing notices through email and therefore, the assessee did not respond to the hearing notices issued by the learned CIT(A). In such circumstances, we are of the view that the learned CIT(A) ought to have resorted to another mode to send the notices instead of email notices. Further, we have also noticed that the learned AO has also passed the ex-parte order U/s. 147 read with section 144 of the Act.

7. Requirement of law under section 250 (6) of the Act is that the order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision. Even in the absence of the assessee, it is always open for the learned CIT(A) to deal with the matter on merits instead of dismissing the same in limine. In the instant case also, the learned CIT(A) could have adverted to the points for determination and decided the same by assigning cogent reasons. Impugned order is conspicuous for its absence.

8. Having regard to the facts and circumstances of the case, we are of the considered opinion that the impugned orders do not comply with the requirement of Section 250(6) of the Act and cannot be sustained.

9. With this view of the matter, we set aside the impugned order and restore the issue to the file of the learned AO to decide the issue afresh. We direct the assessee to co-operate with the learned AO in getting the matter disposed of on merits, without seeking any adjournments and the learned AO 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.

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

Order pronounced in the open court on this the 28th November, 2024.

Sd/-
(MANJUNATHA .G)
ACCOUNTANT MEMBER
Hyderabad, Dated:28/11/2024
OKK

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Copy forwarded to:

1. Reshma, H.No. 5-7-330/5, Barkathpura, Ward-16, Nalgonda, Telangana – 508001.
2. Income Tax Officer, Ward-1, O/o. ITO, Ward-1, Nalgonda, Telangana.
3. Pr. CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE.

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ASSISTANT REGISTRAR
ITAT, HYDERABAD