

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
Visakhapatnam Bench

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री मधुसूदन सावडिया, माननीय लेखा सदस्य
SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER
AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आयकर अपीलसं./I.T.A.Nos.281 & 282/Viz/2024
(निर्धारण वर्ष/ Assessment Years : 2014-15 and 2015-16)

Palaka Satyanarayana, Kakinada. PAN : AYJPS1985K (अपीलार्थी/ Appellant)	Vs.	The Income Tax Officer, Ward – 1, Kakinada. (प्रत्यर्थी/ Respondent)
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri P. Prabhakara Murthy, Advocate.
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	26.03.2025
घोषणा की तारीख/ Date of Pronouncement	:	28.03.2025

ORDER

प्रति रवीश सूद, जे.एम./PER RAVISH SOOD, J.M.

The captioned appeals filed by the assessee are directed against the respective orders passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Center (NFAC),

Delhi, dated 15.05.2024, which in turn arises from the respective orders passed by the Assessing Officer under Section 147 r.w.s. 144 r.w.s 144B of the Income Tax Act, 1961 (for short “the Act”) dated 27.03.2022 for A.Y. 2014-15 and A.Y. 2015-16. As common issues are involved in the captioned appeals, therefore, the same are taken up and disposed of by this consolidated order.

2. We shall first take up the appeal for A.Y. 2014-15 wherein the impugned order has been assailed on the following grounds of appeal before us:

“1. In the facts and circumstances of Appellant's case, the Learned Commissioner of Income-Tax (Appeals) should have given one more opportunity to the appellant to explain his case more fully or should have considered and appreciated in proper perspective, the substantial material evidences forming part of the assessment record (submitted during assessment proceedings through e filing portal) with categorical relevant cogent explanation to the sources for cash deposits, which clearly supports the appeal filed, instead of averring that the appellant is not interested in pursuing this appeal in any productive manner and therefore confining himself only to statement of facts and grounds of appeal filed, as the appellant could not respond to notices issued, only because non familiar with e mail browsing and unaware of notices, in view of engagement in business activities at remote places.

2. In the facts and circumstances of Appellant's case, the Learned Commissioner of Income-Tax (Appeals) is not justified in upholding the initiation of re assessment proceedings u/s 147 of I.T. Act and issuance of notice u/s 148 of the I.T. Act by Learned Income-Tax Officer, ward-1, Kakinada. The Learned Commissioner of Income-Tax (Appeals) ought to have appreciated and accepted that, the very initiation of reopening of assessment proceedings by issuing notice U/s 148 of I.T. Act are not valid in the facts and circumstances of appellant's case and as such the subsequent assessment proceedings in consequence of said notice were null and void.

3. In the facts and circumstances of Appellant's case, the Learned Commissioner of Income-Tax (Appeals) ought to have appreciated and accepted that, the Learned Assessing Officer has failed to appreciate all the submissions in proper perspective, the assessment order passed in a routine and mechanical manner without proper application of mind, as the resultant addition and the averments while making said addition, though not correct, were made solely relying on appellant's submissions only. but ultimately the assessment was completed invoking provisions of section 144 of I.T. Act, thus blowing hot and cold in same breadth, which is against propriety of completing assessment and as such the order thus passed / addition made of Rs 34,50,000/- is not legally tenable.

4. In the facts and circumstances of Appellant's case, the Learned Commissioner of Income-Tax (Appeals) is not justified in upholding the addition made by Learned Assessing Officer, National Faceless Assessment Centre of Rs 34,50,000/- being cash deposits in to bank account as unexplained, invoking the provisions of section 69A of I.T. Act, more particularly when all the bank transactions/bank accounts were duly reflected in regular books of account maintained, which were subjected to Audit u/s 44AB of I.T. Act, report uploaded along with ITR and the nature and source for the deposits were categorically explained along with supporting evidences before Learned Assessing Officer. The learned assessing officer, National Faceless Assessment Centre grossly failed in appreciating the submissions / provisions of section 69A of I.T. Act in proper perspective.

5. Without prejudice to the contention that addition itself is unwarranted, this is also to contend that, in the facts and circumstances of Appellant's case, the tax computation sheet attached to assessment order also contains factual errors in respect of considering the amount of pre-paid taxes, resulting in un warranted excess Tax demand / levy of interest U/s 234A & 234B of the Income Tax Act.

6. For these grounds or any other ground or grounds that may be urged during the course of hearing, the appellant humbly prays to allow the appeal and to grant relief as prayed or any other relief that the Hon'ble Bench may feel appropriate in the facts and circumstance's of Appellant's case.”

3. Succinctly stated, the assessee had filed his return of income for A.Y. 2014-15 on 30.12.2014, declaring an income of Rs.11,13,510/-. Thereafter, the case of the assessee was re-opened u/s 147 of the Act. Notice u/s 148 of the Act, dated 31.03.2021 was issued by the Assessing Officer.

4. Thereafter, the Assessing Officer framed the assessment vide his order passed u/s 147 r.w.s. 144 r.w.s. 144B of the Act, dated 27.03.2022 wherein after taking cognizance of the cash deposited in the assessee's bank accounts during the subject year, viz., (i) Bank Account No. 11910010102714 with United Bank of India: Rs.10,80,000/-; and (ii) Bank Account No.23881530002514 with HDFC Bank, Branch Kakinada: Rs.25,00,000/-, the Assessing Officer observed that the assessee could explain the source of cash deposits of only Rs.1,30,000/-. Accordingly, the A.O. held the balance amount of cash deposits of Rs.34.50 lacs as having been sourced out of the assessee's unexplained money u/s 69A of the Act. Accordingly, the Assessing Officer vide his order u/s 147 r.w.s. 144 r.w.s. 144B of the Act, dated 27.03.2022 determined the income of the assessee at Rs.45,63,510/-.

5. Aggrieved, the assessee carried the matter in appeal before the CIT(A) but without success.

6. The assessee, being aggrieved with the order of CIT(A) has carried the matter in appeal before us.

7. We have heard the learned Authorized Representatives of both the parties, perused the orders of the lower authorities and the material available on record.

8. Shri P. Prabhakara Murthy, the learned Authorized Representative (for short "ld.AR") for the assessee, at the threshold of hearing of the appeal, submitted that the assessee had suffered the dismissal of the appeal without being afforded any opportunity of being heard. Elaborating on his contention, the ld.AR submitted that though the assessee had in his Memorandum of Appeal i.e "Form No.35" provided the e-mail address i.e "palaka satyanarayana@gmail.com" for receiving the notices /communications from the CIT(A) office through email, but no notice intimating the fixation of the hearing of the appeal was on either of the three occasions dropped in the said e-mail account of the assessee. The ld. AR submitted that as is discernible from the

CIT(A) order, though the latter had fixed the hearing of the appeal vide notices/communications that were issued on three dates, i.e. 12.06.2023, 10.04.2024 and 18.04.2024 but neither of the said notices was dropped in the aforementioned e-mail address that was specifically provided by the assessee in his Memorandum of Appeal. Carrying his contention further, the ld.AR submitted that a perusal of the record revealed that on all three occasions, the notices intimating the fixation of hearing of the appeal were dropped in some other email account viz., "mnr_narasimharao@yahoo.co.in". The ld. AR to fortify his aforesaid claim had drawn out attention to the downloaded copies of the aforesaid notices/letters dated 12.06.2023, 10.04.2024 and 18.04.2024 that were issued by the CIT(A) Office. The ld.AR submitted that as the assessee on either of the aforesaid three occasions was not put to notice about the fixation of the hearing of the appeal, therefore, he had remained divested of an opportunity for putting up an appearance and defending his case before the first appellate authority.

9. Per contra, the learned Departmental Representative (for short "the ld. DR") submitted that as the notices intimating the

fixation of hearing of the appeal were forwarded by the CIT(A) office at the e-mail address provided by the assessee in his return of income for the subject year i.e. "mnr_narasimharao@yahoo.co.in"., therefore, there was no substance in the ld. A.R's claim that the assessee was not validly put to notice about the fixation of the hearing of the appeal. Apart from that, the ld. D.R submitted that in all probability as the notices forwarded by the CIT(A) Office to the e-mail account provided by the assessee in "Form No.35" i.e. "palakasatyanarayana@gmail.com" would have bounced, therefore, in all fairness the notices would have been dropped in the e-mail account that was provided by him in his return of income for the year in question.

10. We have thoughtfully considered the contentions advanced by the learned Authorized Representatives for both parties. Admittedly, it is a matter of fact borne from the record that the assessee in his Memorandum of Appeal i.e. "Form No.35" had after answering in affirmative that the notices/communications be sent to him on e-mail had provided the email address, viz. "palakasatyanarayana@gmail.com". As stated by the ld.AR, and

rightly so, a perusal of the record reveals that on all three occasions when the hearing of the appeal was fixed by the CIT(A) i.e. vide notices dated 12.06.2023, 10.04.2024 and 18.04.2024, the respective intimations were not dropped in the e-mail account that was provided by the assessee in his Memorandum of Appeal i.e. "Form No.35" but were dropped in the e-mail account that was provided by him in his return of income for the year under consideration. Although, at first blush, the ld. DR's claim that as the notices (supra) were dropped in the e-mail account provided by the assessee in his return of income, therefore, there was no substance in the latter's claim that he had remained oblivious about the fixation of appeal on the respective dates, appeared to be convincing, but we are afraid that the same does not merit acceptance. We say so, for the reason that now when the assessee had in his memorandum of appeal i.e., in "Form 35" specifically provided his email account for dropping/intimating the fixation of the appeal, viz. "palakasatyanarayana@gmail.com", there could be no justification for the CIT(A) office to have bypassed the same and whimsically forwarded/dropped the said notices in the e-mail account provided by the assessee in his return of income. Apart

from that, the ld. DR's unsubstantiated claim that the notices (supra) were dropped in the e-mail account provided by the assessee in his return of income, for the reason, that those forwarded to the e-mail address provided by him in "Form No.35" would have probably bounced cannot be accepted. We say so, for the reason that the aforesaid claim of the ld. DR is in thin air and is devoid and bereft of any material to support the same.

11. Be that as it may, we are of the firm conviction that as the assessee had not been validly put to notice about the fixation of hearing of the appeal on either of the occasions i.e on 12.06.2023, 10.04.2024 and 18.04.2024, therefore, he had for no fault on his part remained divested of an opportunity of putting up an appearance and defending his case before the first appellate authority. We thus, are of the view that the matter in all fairness requires to be restored to the file of CIT(A) with a direction to re-adjudicate the same. Needless to say, the CIT(A) shall in the course of the set-aside proceedings afford a reasonable opportunity of being heard to the assessee to substantiate his contentions.

12. Before parting, we may herein observe that the Id.AR had stated at Bar that the dropping of the notices by the office of the CIT(A) in the course of the set-aside proceedings in his e-mail account provided in the return of income i.e. "mnr_narasimharao@yahoo.co.in" will be deemed as a valid service and no objection on the said aspect shall hereinafter qua the validity of service on the said count be raised by him.

13. Resultantly, the appeal filed by the assessee is allowed for statistical purposes in terms of our aforesaid observations.

ITA No.282/Hyd/2024 for A.Y. 2015-16

14. As the facts and the issue involved in the present appeal remain the same as were there before us in the assessee's appeal for A.Y. 2014-15 in ITA No.281/Viz/2024, therefore, the order therein passed shall apply *mutatis mutandis* for disposing of the present appeal i.e ITA No. 282/Hyd/2024 for A.Y. 2015-16.

15. In the result, both the captioned appeals are disposed of in terms of the aforesaid observations.

28th मार्च, 2025 को खुली अदालत में सुनाया गया आदेश।

Order pronounced in the Open Court on 28th March, 2025.

Sd/- (मधुसूदन सावडिया) (MADHUSUDAN SAWDIA) लेखा सदस्य/ACCOUNTANT MEMBER	Sd/- (रवीश सूद) (RAVISH SOOD) न्यायिक सदस्य/JUDICIAL MEMBER
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Hyderabad, dated 28.03.2025.

****#TYNM/sps**

आदेशकी प्रतिलिपि अग्रेषित/ **Copy of the order forwarded to:-**

1.	निर्धारिती/The Assessee	:	Palaka Satyanarayana, 2-60A-8/2, Venkat Nagar, Engg. College, S.O., Kakinada (Urban), Andhra Pradesh.
2.	राजस्व/ The Revenue	:	The Income Tax Officer, Ward – 1, Kakinada.
3.	The Principal Commissioner of Income Tax, Visakhapatnam.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम / DR, ITAT, Visakhapatnam.		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam