

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' DB-A ' Bench, Hyderabad

Before Shri Vijay Pal Rao, Vice-President
A N D
Shri Manjunatha, G. Accountant Member

आ.अपी.सं / **ITA No.119/Hyd/2025**
(निर्धारण वर्ष / Assessment Year: 2017-18)

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| Rudvin Enterprises Hyderabad PAN:AASFR0495C (Appellant) | Vs. | Income Tax Officer Ward 14(2) Hyderabad (Respondent) |
| निर्धारित द्वारा / Assessee by: | | Advocate P Vinod |
| राजस्व द्वारा / Revenue by: | | Shri Srinath Sadanala, DR |
| सुनवाई की तारीख / Date of hearing: | | 16/04/2025 |
| घोषणा की तारीख / Pronouncement: | | 16/04/2025 |

आदेश/ORDER

Per Vijay Pal Rao, Vice President

This appeal by the assessee is directed against the order dated, 20/11/2024 of the learned CIT (A)-NFAC Delhi, for the A.Y. 2017-18.

2. The assessee has raised the following grounds of appeal:

1. On the facts and in the circumstances of the case, the order of the Id. CIT(A) is erroneous and unsustainable in law apart from being passed in violation of principles of natural justice. The Id. CIT(A) failed to appreciate that proper notices were not served on the appellant as required under section 282 of the Act r.w. rule 127 of the Rules, and therefore Appellant could not put forth his case.
2. Without prejudice to the above, the Id. CIT(A) erred in sustaining the addition made by the AO of Rs.86,16,263 as business income by taking the total credits of Rs.10,81,13,292 (Rs.10,93,63,292 – Rs.12,50,000) as business receipts and estimating the same at 8%.
3. The authorities below failed to appreciate that the total credits in the banks during the Fy.2016-17 are only Rs.2,18,03,100 and that the AO has considered the same to be Rs.10,93,63,292.
4. The authorities below failed to appreciate that there was not business activity for the Appellant during the year under consideration and that the loans & advances taken were treated as turnover of the Appellant and thereby erred in estimating the income at 8% of the same.
5. The Id. CIT(A) erred in sustaining the addition made by the AO of Rs.12,50,000 as unexplained money u/s.69A of the Act. The Id. CIT(A) failed to appreciate that the AO having considered that the Appellant is into business and treated the credits in the bank as business receipts ought not have made separate addition as unexplained money u/s.69A of the Act for the deposits made during demonetization period.

(Tax Effect: Rs.39,54,910)

6. Any other ground that may be urged at the time of hearing.

3. At the time of hearing, the learned AR of the assessee has submitted that the learned CIT (A) has passed the ex-parte order without considering the request of the assessee seeking adjournment for filing the reply. He has referred to para 4 of the impugned order and submitted that in response to the notices issued on 23/10/2024, the assessee filed the request dated 15/11/2024 seeking adjournment of hearing after 30/11/2024.

However, the learned CIT (A) has passed the impugned order on 20/11/2024 without considering the request of the assessee. He has further submitted that the Assessing Officer has also passed the ex-parte order u/s 144 of the I.T. Act, 1961 when there was no compliance on behalf of the assessee to the notices issued by the Assessing Officer. The learned AR has submitted that due to non-communication of the notices issued by the Assessing Officer and the learned CIT (A), the assessee could not file the relevant details and submission and therefore, pleaded that the assessee may be granted one more opportunity to file the relevant details and supporting evidences to be examined by the Assessing Officer. Hence, the learned AR has prayed that the matter may be remanded to the record of the Assessing Officer for fresh adjudication.

4. On the other hand, the learned DR has submitted that it is a case of non-compliance on behalf of the assessee to the notices issued by the Assessing Officer as well as the learned CIT (A). Thus, the conduct of the assessee is very casual and negligent to the proceedings before the Assessing Officer and the learned CIT (A).

5. Having considered the rival submission and careful perusal of the impugned orders, we note that the Assessing Officer has passed an ex-parte order u/s 144 of the I.T. Act, 1961 whereby an addition on account of estimation of income @ 8% on the total credit of Rs.10,81,13,292/- as turnover of the assessee and further addition of Rs.12,50,000/- made on account of unexplained cash deposit made in the bank account during the

demonetization period. On appeal, the learned CIT (A) has issued 3 notices dated 30/01/2021, 15/10/2024 and 23/10/2024 but there was no response on behalf of the assessee and consequently the appeal of the assessee was dismissed for non-prosecution. Thus, it is clear that the learned CIT (A) has not decided the issues raised by the assessee on merit by a speaking order. Further, out of 3 notices issued by the learned CIT (A), one was issued during covid pandemic period and other 2 notices were issued within a period of one week in the month of October, 2024. Accordingly, in the facts and circumstances of the case and having regard to the conduct of the assessee, we set aside the impugned order of the learned CIT (A) and remand the matter to the record of the Assessing Officer for fresh adjudication subject to a cost of Rs.2500/- to be paid to the Prime Ministers' National Relief Fund within a period of one month from the date of this order. Needless to say, the assessee be given an appropriate opportunity of hearing before passing the fresh order.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on the conclusion of hearing i.e. 16th April, 2025.

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| Sd/- (MANJUNATHA, G) ACCOUNTANT MEMBER | Sd/- (VIJAY PAL RAO) VICE-PRESIDENT |
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Hyderabad, dated 16th April, 2025
Vinodan/sps

Copy to:

| S.No | Addresses |
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| 1 | M/s. Rudvin Enterprises, No.8-6-201/A/3/4 Plot No.22A, Panchavati Colony, Road No.10, Banjara Hills, Hyderabad 500034 |
| 2 | Income Tax Officer Ward 14(2) AC Guards Masab Tank, Hyderabad |
| 3 | Pr. CIT – Hyderabad |
| 4 | DR, ITAT Hyderabad Benches |
| 5 | Guard File |

By Order