

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 Madhusudan Sawdia, Accountant Member

आ.अपी.सं / **ITA No.1150/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2018-19)

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|---|---------------------------|---|
| Venkatagiri Primary Agricultural Cooperative Society Ltd, NELLORE PAN:AABAV7346J | Vs. | Income Tax Officer Ward – 1 NELLORE |
| (Appellant) | | (Respondent) |
| निर्धारित द्वारा/Assessee by: | N O N E | |
| राजस्व द्वारा/Revenue by: | Shri Srinath Sadanala, DR | |
| सुनवाई की तारीख/Date of hearing: | 30/04/2025 | |
| घोषणा की तारीख/Pronouncement: | 30/04/2025 | |

आदेश/ORDER

Per Vijay Pal Rao, Vice President

This appeal filed by the assessee is directed against the order dated 8/8/2024 of the learned CIT (A)-NFAC Delhi, for the A.Y.2018-19.

2. There is a delay of 4 days in filing the present appeal. The assessee has filed a petition for condonation of delay which is also supported by an affidavit. None has appeared on behalf of the

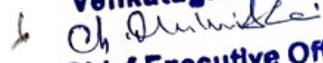
assessee when this appeal was called for hearing. We have perused the affidavit filed by the assessee explaining the cause of delay. The learned DR has no serious objection if the delay of 4 days in filing the appeal is condoned. Accordingly, having considered the reasons explained by the Assessee Cooperative Society in the affidavit, we are satisfied that the assessee was having a sufficient cause for the delay of 4 days in filing the present appeal and consequently, the same is condoned.

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

1).This assessment order is not maintainable either on law or on facts and deserves to be set-aside.

2).The assessing officer had made TWO additions and the total amount of addition is Rs 9.74.820-00 (Nine lakhs Seventy Four Thousand eight twenty Rupees Only)

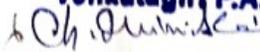
3).This total amount of addition comprises TWO amounts One is Rs 9.41.586-00 relating to the term deposit receipt (TDR) which is the sum of closing balances of different savings account in the appellant society during the financial year 2017-18 relevant to the assessment year 2018-19.This amount was shown in the balance sheet under the head investments for the AY 2018-19.The details were furnished before the AO but the AO didn't considered it and treated it as unexplained investments and added an amount of Rs 9.41.586-00 to the return filed income of the appellant is not correct and justified.


Venkatagiri P.A.C.S.
Chief Executive Officer

4).The AO has made addition of Rs 33,233-00 (Thirty three thousand Two hundred and Thirty three) to the return filed income of the appellant which is not correct this amount of Rs 33,233-00 which is the sum of closing balances of different savings account and it was also included in the balance sheet under the head LTD. These amount represents balances in savings bank account which are not used for day to day operations of the entity. The same was explained before the AO with all relevant evidences but the AO without appreciating the evidences came on wrong conclusion that these amount as unexplained investment of the appellant and made addition to the return filed income of the appellant is also not justified.

5).The commissioner of Income tax (Appeals) NFAC was also not appreciated the grounds raised by the appellant during the first appeal proceedings and he has not afford an opportunity to the appellant to represent his case and he passed an Ex-Party order confirming the demand of the AO is also not correct and justifiable.

6).The CIT(A) NFAC issued notices of hearing on 23-07-2024 and directed the appellant to upload the necessary documents in support of his claim in the appeal. But the appellant couldn't availed the opportunity because the CEO of the appellant society has been bedridden from 17-07-2024 TO 04-08-2024, therefore he couldn't contacted his authorized representative to upload required information CIT Appeals before 31-07-2024. There is no willful negligence on the part of the appellant as the circumstances are beyond the control of the appellant. But the CIT appeals treated the appellant as Ex-parte and passed Ex-parte dismissal order on 08-08-2024 is also not correct and justified. At this instance, the appellant is relying upon the following citation

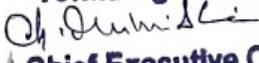
Venkatagiri P.A.C.S.

Chief Executive Officer

Prime ABGB(P) Ltd Vs. NFAC, Delhi(2023) 147 Taxmann.com 357(Bom)

In the above case the Hon'ble Bombay High Court reiterates the importance of adhering the Principles of Natural Justice while deciding matters related to tax Appeals. The decision also emphasizes that, technical reasons should not be used as an excuse for passing ex-parte orders without giving the assessee a fair opportunity to present its case.

In view of the above the Appellant prays that the Hon'ble Income tax Appellate Tribunal may be pleased to consider the above grounds and set-aside the impugned order of the Assessing Officer and delete the demand and allow the appeal accordingly in the interest of justice.


Advocate for the Appellant.

Venkatagiri P.A.C.S.

Chief Executive Officer
Appellant.

V.V.S.C. MURALIDHAR RAO
B.A.,L.L.B.
Advocate High Court A.P.
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4. At the outset, we note that in Ground No.6, the assessee has explained the reasons for non-compliance of the notice issued by the learned CIT (A) NFAC as the CEO of the Assessee Society was bedridden and could not take the steps for the compliance. We further note that the learned DR has also accepted the fact that the learned CIT (A) NFAC has passed the impugned order ex-parte when there was no response to the notice issued by the learned CIT (A) NFAC.

5. Having considered the grounds raised by the assessee as well as the relevant material available on record, at the outset we note that the learned CIT (A) NFAC has dismissed the appeal of the assessee for non-prosecution as the assessee did not respond to the notice issued by the learned CIT (A). The assessee has explained the reasons for non-compliance and therefore, in the facts and circumstances of the case and in the interest of justice, we grant one more opportunity to the assessee to present its case before the learned CIT (A) NFAC. Accordingly, the impugned order of the learned CIT (A) NFAC is set aside and the matter is remanded to the record of the learned CIT (A) for fresh adjudication on merits after giving one more opportunity of hearing to the assessee.

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

Order pronounced in the Open Court on the conclusion of hearing i.e. 30th April, 2025.

Sd/-

(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Sd/-

(VIJAY PAL RAO)
VICE-PRESIDENT

Hyderabad, dated 30th April, 2025

Vinodan/sps

Copy to:

| S.No | Addresses |
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| 1 | Venkatagiri Primary Agricultural Cooperative Society Ltd, OO Yathaluru, Venkatagiri Bazar, S.O Venkatagiri, Nellore 524132 A.P |
| 2 | Income Tax Officer Ward-1 Nellore |
| 3 | Pr. CIT - Tirupati |
| 4 | DR, ITAT Hyderabad Benches |
| 5 | Guard File |

By Order