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IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / **ITA No.1360 & 1361/Hyd/2024**
(निर्धारण वर्ष/Assessment Years:2015-16 & 2016-17)

The Mamatha Consumers Co-operative Central Stores Limited, Mancherial. PAN:AAEAT2973Q (Appellant)	Vs.	Income Tax Officer, Ward-1, Mancherial. (Respondent)
निर्धारिती द्वारा/Assessee by:	Shri K.A. Sai Prasad, C.A.	
राजस्व द्वारा/Revenue by:	Dr. Sachin Kumar, Sr-DR	
सुनवाई की तारीख/Date of hearing:	01/04/2025	
घोषणा की तारीख/Pronouncement:	04/04/2025	

आदेश/ORDER

PER MADHUSUDAN SAWDIA, A.M. :

These two appeals are filed by The Mamatha Consumers Co-operative Central Stores Limited ("the assessee"), feeling aggrieved by separate orders passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), dated 04.11.2024 and 12.11.2024 for the A.Ys. 2015-16 & 2016-17 respectively. Since similar issues were involved in these appeals, they are heard together and one consolidated order is being passed for the sake of convenience and brevity.

2. The assessee has raised the following grounds :

1. The order of the Learned assessing officer is illegal, arbitrary and void in both facts and law.
 2. The Learned Assessing Officer erred in not granting proper opportunity to present the case before him.
 3. Whether on the facts the Learned assessing officer is justified in making the addition U/s. 69A attracting provision U/s. 115BBE
 4. The learned Assessing Officer erred in recognising the fact the interest accrued @ Rs. 22,610/- is originated from the business itself. Therefore should not be treated as income from other sources.
 5. Any other grounds may be kindly allowed at the time of hearing the appeal. Appellant carves leave to, add to, amend to, or modify the above grounds of appeal either before or during the hearings of the appeal, as permitted by the Hon'ble Tribunal of Income Tax.
3. The brief facts of the case are that the Learned Assessing Officer ("Ld. AO") initiated proceedings u/s.147 of the Income Tax Act, 1961 ("the Act") by issuing notice u/s.148 of the Act to the assessee. However, the assessee did not file the Return of Income ("ROI") in response to the said notice. The assessee also failed to respond to subsequent notices issued during the assessment proceedings. Consequently, the Ld. AO passed the assessment order u/s.147 r.w.s. 144 of the Act on 30.03.2024.

4. Aggrieved by the order of Ld. AO, the assessee filed appeal before the Ld. CIT(A) with a delay of 105 days. The Ld. CIT(A), without condoning the delay dismissed the appeal of the assessee.

5. Aggrieved with the order of Ld. CIT(A), the assessee is in appeal before us. The Learned Authorised Representative (“Ld. AR”) submitted that, the assessee could not receive the notices sent by the Ld. AO due to change in their address. It was also submitted that, no e-mail corresponding to the notices was also sent to the assessee. In support of their claim, the Ld. AR placed on record copies of down loaded communications from the IT Portal, from which it was demonstrated that no specific recipient e-mail address was mentioned in the system generated e-mail. The Ld. AR further submitted that, although the assessment order was passed by Ld. AO on 30.03.2024, it was actually received by the assessee on 29.07.2024. By that time, the Manager who was managing the tax matters of the assessee was seriously ill. In support of their submission, the Ld. AR invited our attention to page no.5 of the order of Ld. CIT(A), where the petition for condonation of delay filed by the assessee has been captured by Ld. CIT(A). The Ld. AR also invited our attention to page nos.8 & 9 of the order of Ld. CIT(A) for A.Y. 2016-17, wherein the Ld. CIT(A) has captured the certificate issued by hospital regarding the illness of the Manager. Thus, it was submitted by Ld. AR that the delay

was neither deliberate nor intentional and was caused due to bona fide and reasonable cause. The Ld. AR further submitted that, due to lack of proper opportunity, the assessee could not prosecute its case before the Ld. AO also due to non-service of notice. Therefore, the Ld. AR prayed before the bench to provide one more opportunity to the assessee to present their case on merits before the Ld. AO.

6. Per contra, the Learned Department Representative (“Ld. DR”) opposed the assessee's request and submitted that the assessee failed to comply with the notices issued by the Ld. AO and also did not file the appeal in time before the Ld. CIT(A). Therefore, the Ld. DR contended that, no further opportunity should be granted to the assessee.

7. We have heard the rival contentions and also gone through the record in the light of the submissions made by either side. We have gone through the petition for condonation of delay filed before the Ld. CIT(A) placed at page no.5 of the order of Ld. CIT(A) for A.Y. 2015-16 and also the medical certificates placed at page nos.8 & 9 of the order of Ld. CIT(A) for A.Y. 2016-17. On perusal of these documents, we are of the opinion that there was reasonable cause with the assessee for delay in filing of the appeal before the Ld. CIT(A). Accordingly, we condone the delay in filing the appeal before the Ld. CIT(A).

7.1 We also found that the assessee could not prosecute his case, before the Ld. AO due to non-receipt of notices issued by the Ld. AO. Now, the assessee is ready to co-operate and furnish the necessary details with the Ld. AO to prosecute their case on merits. Therefore, we are of the view that one more opportunity ought to be granted to the assessee in the interest of substantial justice. Accordingly, we set aside the order of Ld. AO and restore the issue to the file of Ld. AO with a direction to afford the assessee a reasonable opportunity of being heard and to pass a fresh assessment order in accordance with law, after duly considering the documents filed by the assessee.

8. In the result, the appeal of the assessee in ITA no.1360/Hyd/2024 is allowed for statistical purposes.

ITA No.1361/Hyd/2024

9. The issue involved in this appeal is similar to the issue involved in ITA no.1360/Hyd/2024. Therefore, our discussion and findings in ITA no.1360/Hyd/2024 shall apply mutatis mutandis in this appeal also. Accordingly, this appeal of the assessee is also allowed for statistical purposes.

10. To sum up, both the appeals of assessee are allowed for statistical purposes.

Order pronounced in the open Court on 4th April, 2025.

**Sd/-
(VIJAY PAL RAO)
VICE PRESIDENT**

**Sd/-
(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER**

Hyderabad.

Dated: 04.04.2025.

* *Reddy gp*

Copy of the Order forwarded to :

1. The Mamatha Consumers Co-operative Central Stores Limited, 5-247, Sahakara Bhavan, Opp. Bus Stand, Mancherial-504 208
2. ITO, Ward-1, Mancherial.
3. Pr. CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. Guard File.

BY ORDER,