

INCOME TAX APPELLATE TRIBUNAL
HYDERABAD "A" BENCH: HYDERABAD

BEFORE SHRI MANJUNATHA G, ACCOUNTANT MEMBER
AND
SHRI RAVISH SOOD, JUDICIAL MEMBER

ITA.No.896/Hyd./2025
Assessment Year 2017-2018

Mohd. Ateequr Rahman, NIZAMABAD – 503 001. Telangana. PAN BATPR6603Q	vs.	The Income Tax Officer, Ward-1, SANGA REDDY – 502 001. Telangana.
(Appellant)		(Respondent)

For Assessee :	Sri Tejprakash Toshniwal, Advocate
For Revenue :	Sri Madan Mohan Meena, Sr. AR

Date of Hearing :	11.09.2025
Date of Pronouncement :	24.09.2025

ORDER

PER MANJUNATHA G. :

The above appeal has been filed by the assessee against the Order dated 22.01.2025 of the learned Addl./ Joint Commissioner of Income Tax-(Appeals), Bhopal, relating to the assessment year 2017-2018.

2. Brief facts of the case are that, the assessee is an individual and had not filed his return of income for the assessment year 2017-2018. The Department is having

information that, during the year under consideration, the assessee has made huge cash deposits in his bank account maintained with ICICI Bank and during the course of assessment proceedings, the Assessing Officer has obtained copy of Bank statement of the assessee maintained with ICICI Bank by issuing summons u/sec.133(6) of the Income Tax Act, 1961 [in short “the Act”]. The Assessing Officer has issued notices u/sec.142(1) of the Act calling for certain information such as nature of cash deposits and other deposits reflected in the bank account, sources for the same and sources for the cash deposits made during the demonetization period i.e., 09.11.2016 to 31.12.2016. In response, to the said notice, the assessee filed his return of income on 05.08.2019 admitting an income of Rs.4,27,950/- and also filed letters dated 05.08.2019 and 22.08.2019 wherein, it has been stated that, the transactions reflected in the bank account relate to his business transactions carried-out in travel agency. However, the assessee has not furnished any information substantiating that, the transactions reflected in the bank account pertain

to his business in Travel Agency. The Assessing Officer observed that, the assessee failed to furnish return of income, in response to the notice issued u/sec.142(1) of the Act, within the time allowed u/sec.142(1) of the Act i.e., before 31.03.2018. Therefore, the Assessing Officer has treated the return of income filed by the assessee on 05.08.2019 as non-est [invalid] and the same has been communicated to the assessee vide letter dated 08.09.2019. In the said letter, the assessee has also been informed that, the assessment proceedings are proposed to be completed as per the Best Judgment as per the provisions of Section 144 of the Income Tax Act, 1961. Further, vide show cause, the assessee has been called-for to substantiate that, the transactions reflected are his business transactions relating to Travel Agency and also to furnish the sources of funds for the deposits made in cash during the period 09.11.2016 to 31.12.2016. In response to the show cause letter dated 08.09.2019, the assessee filed reply on 17.09.2019 wherein, it has been stated that, the sources for the cash deposits made during the demonetization period are out of the

advances paid by the Travelers and personal savings. However, the assessee has not substantiated his contention with proof/evidence. Therefore, in absence of any explanation along with relevant documentary evidences filed by the assessee, the Assessing Officer estimated the net profit of the assessee from travel agency from the receipts amounting to Rs.34,43,600/- during the periods 01.04.2016 to 08.11.2016 and 01.01.2017 to 31.03.2017 @ 12.5% which works out at Rs.4,30,450/- and also made addition on account of cash deposit during the demonetization period amounting to Rs.16,55,000/- u/sec.69A r.w.s.115BBE of the Income Tax Act, 1961 as unexplained money, vide best Judgment assessment order dated 28.09.2019 passed u/sec.144 of the Income Tax Act, 1961.

3. Aggrieved by the assessment order, the assessee preferred appeal before the learned CIT(A). During the course of appellate proceedings, the learned CIT(A) has issued various notices u/sec.250 of the Act on 5 occasions i.e., on 05.03.2020, 06.08.2020, 28.08.2020, 23.12.2020

and 01.12.2024 and called-upon the assessee to file his explanation with relevant documentary evidences to substantiate his case. However, the assessee did not respond to the above notices. Therefore, the learned CIT(A) has dismissed the appeal of the assessee for non-prosecution by following Judgment of Hon'ble Supreme Court in the case of CIT vs., BN Bhattachargee & Anr. 118 ITR 461 (SC) and Judgment of Madhya Pradesh High Court in the case of Estate of Late Tukojirao Holkar vs. CWT 223 ITR 480 (M.P.).

4. Aggrieved by the order of the learned CIT(A), the assessee is now, in appeal before the Tribunal.

5. Sri Tejprakash Toshniwal, Advocate-Learned Counsel for the Assessee submitted that, the assessee has filed return of income in response to notice issued u/sec.142(1) of the Act and also filed relevant information as called-for by the Assessing Officer which is evident from the assessment order. The Assessing Officer without considering the submissions of the assessee, has passed ex-parte assessment order u/sec.144 of the Act. Before the

learned CIT(A), the assessee could not represent his case due to the circumstances beyond his control. However, the learned CIT(A) dismissed the appeal of the assessee for non-prosecution, without deciding the appeal on merits based on the material available on record, which is not sustainable in the eye of law. He submitted that, the assessee has got fair chances to succeed in it's appeal before the learned CIT(A) and, therefore, pleaded that, one more opportunity of hearing may please be granted to the assessee by remitting the issue back to the file of learned CIT(A) in the interest of substantial justice.

6. Sri Madan Mohan Meena, learned Sr. AR for the Revenue, on the other hand, supporting the order of the learned CIT(A) submitted that, the assessee has failed to substantiate his case before the Assessing Officer during the course of assessment proceedings with relevant documentary evidences and, therefore, the Assessing Officer had not option, except to pass ex-parte assessment order. During the course of appellate proceedings, the learned CIT(A) has issued notices on 5 occasions calling the

assessee to furnish his explanation with supporting documentary evidences and thereby, the learned CIT(A) has provided sufficient opportunity to the assessee. However, the assessee did not chose to represent his with supporting documentary evidences before the learned CIT(A). Therefore, the learned CIT(A) after considering the assessment order and also taking note of negligence approach in prosecuting his case before him, the learned CIT(A) has rightly dismissed the appeal of the for non-prosecution. He, therefore, submitted that, the order of the learned CIT(A) should be upheld .

7. We have heard both the parties, perused the material on record and the orders of the authorities below. We find that, there is no dispute between the parties that the Assessing Officer has passed ex-parte assessment order u/sec.144 of the Act, by treating the return of income filed by the assessee on 05.08.2019 as non-est in the eye of law as the same is filed beyond the due date as per the notice issued u/sec.142(1) of the Act and during the course of appellate proceedings before the learned CIT(A), the learned

CIT(A) has dismissed the appeal of the assessee for non-prosecution vide order dated 22.01.2025, however, not decided the appeal on merits. We find that, it is the settled position of law by the decisions of various Courts and Tribunals that, even in a case of no representation from the appellant, the appeal should be decided on merits on the basis of material available on record. In the present case, although, the assessee has furnished certain details before the Assessing Officer in respect of additions made towards estimation of net profit @ 12.5% which works out to Rs.4,30,450/- and addition made on account of cash deposited during the demonetization period as unexplained money amounting to Rs.16,55,000/- u/sec.69A r.w.s.115BBE of the Income Tax Act, 1961, but, the learned CIT(A) not even considered the said information while disposing of the appeal. Since, the learned CIT(A) has disposed of the appeal filed by the assessee for non-prosecution, without considering the issue on merit, in our considered view, the issue needs to be set-aside to the file of learned CIT(A). Thus, we set-aside the order of the learned

CIT(A) and restore the issue back to the file of learned CIT(A) with a direction to decide the issues involved in the appeal of the assessee, in accordance with law, by providing reasonable opportunity of hearing to the assessee.

8. In the result, appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open Court on 24.09.2025.

Sd/-
[RAVISH SOOD]
JUDICIAL MEMBER

Sd/-
[MANJUNATHA G]
ACCOUNTANT MEMBER

Hyderabad, Dated 24th September, 2025

VBP

Copy to

1.	Mohd. Ateequr Rahman, 9-20-334, Mujahib Nagar, Near Malapally Masjid, NIZAMABAD – 503 001.Telangana.
2.	The Income Tax Officer, Ward-1, Veerabhadra Nagar, New Bus Stand, SANGAREDDY - 502 001. Telangana.
3.	The Pr. CIT, Hyderabad.
4.	The DR ITAT “A” Bench, Hyderabad.
5.	Guard File.

//By Order//

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