

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

Before Shri R.K. Panda, Accountant Member
AND
Shri Laliet Kumar, Judicial Member

ITA No. 27/Hyd/2023		
Assessment Year: 2016-17		
Shri Kista Goud Idgi Medak PAN: AASPI9764P (Appellant)	Vs.	Income Tax Officer Ward-1 Sangareddy (Respondent)
Assessee by:	Shri K.C. Devdas, CA	
Revenue by:	Shri Kumar Aditya, DR	
Date of hearing:	07/02/2023	
Date of pronouncement:	08/02/2023	

ORDER

Per R.K. Panda, A.M

This appeal filed by the assessee is directed against the ex-parte order dated 20-02-2020 of the learned CIT (A)-2, Hyderabad relating to A.Y.2016-17.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the ex-parte order of the learned CIT (A) in confirming the various additions made by the Assessing Officer and thereafter giving part relief.

3. Facts of the case, in brief, are that the assessee is an individual and filed his return of income on 9.5.2016 declaring total income at Rs.3,66,640/-. The case was selected for scrutiny

under CASS and statutory notices u/s 143(2) and 142(1) were issued to the assessee calling for certain information such as copies of P&L A/c, balance sheet for the year ended 31.3.2016, copies of the Bank A/c statement for the financial year relevant to the A.Y 2016-17 and nature of the cash deposit reflected in the Bank A/c, sources of cash deposits and proof/evidence for the deductions claimed under Chapter VIA of the I.T. Act, 1961. In response to the same, the AR of the assessee appeared before the Assessing Officer from time to time and filed the requisite details. The Assessing Officer completed the assessment u/s 143(3) on 22.12.2018 determining the total income of the assessee at Rs.92,26,000/- wherein he made the following additions:

- A) Unexplained cash deposit in S.B A/c u/s 69 r.w.s 115BBE of the I.T. Act Rs.83,45,858/-
- B) Unexplained investment made out of SB A/c u/s 69 r.w.s. 115BBE of the I.T. Act – Rs.3,00,026/-.
- C) Disallowance of deduction claimed under Chapter VIA of the I.T. Act, 1961 – Rs.1,43,610/-
- D) Income from other sources being interest in SB A/c – Rs.69,869/-.

4. In appeal, despite number of opportunities granted, the assessee did not appear before the learned CIT (A) for which the learned CIT (A) in the ex-parte order passed by him granted part relief to the assessee and sustained the addition of Rs.71,23,062/- out of the addition of Rs.83,45,858/-, sustained the disallowance of Rs.1,43,610/- made by the Assessing Officer under Chapter VIA and addition of Rs.69,869/- being the addition towards interest on SB A/c made by the Assessing Officer. He, however, deleted the addition of Rs.30,026/- made by the Assessing Officer.

5. Aggrieved with such order of the learned CIT (A), the assessee is in appeal before the Tribunal.

6. The learned Counsel for the assessee at the outset submitted that due to unavoidable circumstances, the assessee could not appear before the learned CIT (A). He submitted that given an opportunity the assessee is in a position to substantiate his case with necessary evidence to the satisfaction of the learned CIT (A). He accordingly submitted that in the interest of justice, the matter should be restored to the file of the learned CIT (A) for fresh adjudication.

7. The learned DR, on the other hand, referring to Page 7 & 8 of the order of the learned CIT (A) drew the attention of the Bench to the continuous non-compliance of the assessee to the statutory notices issued by the learned CIT (A) to submit the details. He submitted that under these circumstances, no further opportunity should be granted to the assessee and the appeal filed by the assessee should be dismissed.

8. We have heard the rival arguments made by both the sides, perused the orders of the AO and the learned CIT (A) and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us by both sides. We find the AO in the instant case determined the total income of the assessee at Rs.92,26,000/- as against the returned income of Rs.3,66,640/- by making various additions as per Para 3 above. We find the learned CIT (A) in the ex-parte order passed by him gave part relief to the assessee and sustained the major additions for which the assessee is in appeal before the Tribunal. It is the submission of the learned Counsel for the assessee that although

there was non-compliance before the learned CIT(A)-NFAC to the statutory notices issued by his office, however, the same was due to unavoidable circumstances and given an opportunity, the assessee is in a position to substantiate his case with evidence to the satisfaction of the learned CIT(A)-NFAC regarding the merit of the case. It is also his submission that in the interest of justice, the assessee should be given an opportunity to substantiate his case. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the learned CIT(A)-NFAC with a direction to grant one last opportunity to the assessee to substantiate his case and decide the issue as per fact and law. Further, considering the continuous non-compliance of the assessee to the statutory notices issued by the office of the learned CIT(A)-NFAC, we levy a cost of Rs.10,000/- on the assessee for his callous and non-cooperation attitude and the same shall be paid to the PM's Relief Fund. The assessee is also hereby directed to appear before the learned CIT (A)-NFAC on the appointed date without seeking any adjournment under any pretext failing which the learned CIT (A)-NFAC may pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the Open Court on 8th February, 2023.

Sd/- (LALIET KUMAR) JUDICIAL MEMBER	Sd/- (R.K. PANDA) ACCOUNTANT MEMBER
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Hyderabad, dated 8th February, 2023.

Vinodan/sps

Copy to:

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3	CIT (A)-2 ,Hyderabad
4	Pr. CIT-2, Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order