

**IN THE INCOME TAX APPELLATE TRIBUNAL
ALLAHABAD BENCH 'SMC' ALLAHABAD**

[THROUGH VIRTUAL COURT]

BEFORE SHRI.VIJAY PAL RAO, JUDICIAL MEMBER

**ITA No.74/ALLD/2018
Assessment Year: 2012-13**

Ravindra Nath Singh, Ambedkar Nagar, Shakti Nagar, Sonebhadra 231216	v.	Income Tax Officer, Range -3(3), Mirzapur
TAN/PAN:ALTPS 1751L		
(Appellant)		(Respondent)

Appellant by:	Shri Praveen Godbole, CA
Respondent by:	Shri A.K. Singh, CIT (DR)
Date of hearing:	13.01.2021
Date of pronouncement:	14.01.2021

ORDER

PER SHRI VIJAY PAL RAO, JUDICIAL MEMBER:

1. This appeal by the assessee is directed against the order dated 21.12.2017 of Id. CIT(A), Allahabad for the A.Y. 2012-13. The assessee has raised the following grounds:

- "1. That in any view of the matter the assessment order dated 26.02.2015 passed u/s 143(3) of the IT Act on income of Rs. 29,98,640.00 is bad both on the facts and in law and therefore the declared income should have been accepted in the facts and circumstances of the case.*

2. *That in any view of the matter the Ld CIT(A) was wrong in passing exparte order without providing reasonable opportunity to the assessee and thus the order is not a speaking order in the eyes of Law.*
3. *That in any view of the matter observations and findings of the Assessing Officer in his order for making the additions/ disallowances is wrong, illegal and contrary to the actual facts of the case and moreover no proper opportunity of being heard was provided to the assessee hence the same are liable to be deleted in all fairness and justice.*
4. *That in any view of the matter addition of Rs. 1,58,190.00 as made by the Assessing Officer and confirmed by CIT(A) by alleging interest on STDR is highly unjustified and illegal in the facts and circumstances of the Act.*
5. *That in any view of the matter an amount of Rs. 3,936.00 as added by the Assessing Officer and confirmed by CIT(A) by alleging interest on Income Tax refund is incorrect and unwanted.*
6. *That in any view of the matter disallowance of Rs. 22,13,480.00 as made by the Assessing officer and confirmed by CIT(A) out of deposits of sundry creditors is highly unjustified, and illegal because the parties in question are genuine and man of status and they confirmed their deposits, hence the disallowance is liable to deleted.*
7. *That in any view of the matter disallowance out of claimed business expenses in P/L account under following heads as made on adhoc and percentage basis is highly unjustified and illegal in the facts and circumstances of the case.*

I.	Vehicle running expenses	Rs. 2,84,750.00
II.	Freight & transportation expenses	Rs. 38,450.00
III.	Travelling & conveyance expenses	Rs. 4,150.00
IV.	Labour & staff welfare expenses	Rs. 7,910.00
V.	Miscellaneous & site expenses	Rs. 13,650.00
	Total	Rs. 3,48,910.00

8. *That in any view of the matter the aforesaid expenses are business expenses claimed in P/L account, incurred for business purpose only recorded in books of account. Moreover there is no provisions in the IT Act to make disallowance out of genuine and claimed business expenses on percentage and estimate basis hence both the two lower authorities are wrong in confirming the same.*
9. *That in any view of the matter the addition and disallowances made as per Para 2 & 3 of the assessment order are highly unjustified and illegal in the facts and circumstances of the case hence the same deserve to be deleted in the facts and circumstances of the case.*
10. *That in any view of the matter penal interest charged under different sections of the IT Act is highly unjustified and illegal in the facts and circumstances of the case.*
11. *That in any view of the matter the appellant reserves his right to take any fresh ground of appeal before hearing of the appeal.”*

2. The Id. AR of the assessee at the outset has pointed out that the assessee has challenged the impugned order of the Id. CIT(A) on the ground of not providing reasonable opportunity and ex parte order passed by the Id. CIT(A) which is a non speaking order. The Id. AR has further submitted that the Assessing Officer has made various disallowances/additions for want of explanation and supporting evidence, which were confirmed by the Id. CIT(A) without deciding the issue by speaking order but in summary manner. Hence, the Id. AR has pleaded that the assessee may be given one more opportunity of hearing before the Id. CIT(A) to produce the supporting evidence as well as to present his case.

3. On the other hand, Id. DR has submitted that despite sufficient opportunities were given by the Assessing Officer as well as Id. CIT(A) the assessee has failed to

establish the existence of sundry creditor as well as other claim of expenditure. Thus, he has opposed to grant of any further opportunity to the assessee.

4. Having considered the rival submissions and careful perusal of the impugned order, it is noted that though the Id. CIT(A) has reproduced the detailed submissions of the assessee in the impugned order. However, the finding of the Id. CIT(A) is very cryptic and non speaking. The Id. CIT(A) has adjudicated the grounds of appeal in Para 4 as under:

“4. Decision:

Ground of appeal No.1 & 2

The grounds of appeal 1 & 2 are general in nature and do not need separate adjudication.

Ground of appeal No. 3 & 4

The appellant has not made any submissions. The AO has made the addition in computation of income as interest on STDR and interest on IT Refund. No cause of any grievance arises. The addition has been correctly made. These grounds of appeal are dismissed.

Ground of appeal No. 5

The order of the AO and submission of the appellant have been considered. Despite repeated opportunities in this proceedings the appellant has not produced any document to establish the genuineness of sundry creditors. If sundry creditors were genuine the appellant could have produced, the confirmed copy of accounts. This has not been done. In Absence of any confirmation the appellant-has not discharged his initial onus. The addition made is confirmed. This ground is dismissed.

Ground of appeal No. 6, 7 & 8

As regards disallowances one concerned the appellant only produced books of account before the AO without any bills and vouchers This is not a case where bills and vouchers were produced and AO made an adhoc addition. The AO has given categorical finding that no bills and vouchers were produced. In view of this the addition made is confirmed. These grounds are dismissed.

In the result the appeal is dismissed.”

5. Thus, the Id. CIT(A) has not discussed any of the contentions raised by the assessee or analyze the facts and argument of the assessee. Hence, in the facts and circumstances of the case and in the interest of justice, the impugned order of the Id. CIT(A) is set aside and matter is remanded to the record of the CIT(A) for adjudication of the same afresh after giving one more opportunity to the assessee to present his case and to produce the supporting evidence.

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

(Order pronounced on 14/01/2021 at Allahabad in the open Court through Video Conferencing)

Sd/-

[VIJAY PAL RAO]
JUDICIAL MEMBER

Dated: 14/01/2021

Aks/-

Copy forwarded to:

1. Appellant –
2. Respondent –
3. CIT(A) -
4. CIT
5. DR -