

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

[THROUGH VIRTUAL COURT]

BEFORE SHRI.VIJAY PAL RAO, JUDICIAL MEMBER

ITA No.253/ALLD/2018
Assessment Year: 2007-08

&

ITA No.254/ALLD/2018
Assessment Year: 2013-14

Sri Sobat Singh Murdhwa Renukoot, Sonebhadra, Uttar Pradesh -231221.	v.	Income Tax Officer Ward- 3(4) Mirzapur.
TAN/PAN: AZUPS2354N		
(Appellant)		(Respondent)

Appellant by:	Shri Praveen Godbole, C.A.
Respondent by:	Shri A.K. Singh, CIT (Sr. DR)
Date of hearing:	13.07.2021
Date of pronouncement:	15.07.2021

ORDER

PER SHRI VIJAY PAL RAO, JUDICIAL MEMBER:

These two appeals by the assessee are directed against two separate orders of CIT(A)- Allahabad, both dated 21.12.2017 for the A.Ys. 2007-08 & 2013-14 respectively.

2. For the A.Y.2007-08, the assessee has raised the following grounds.-

1. *“That in any view of the matter assessment made on income of Rs. 17,64,000/- by order dated on 30.01.2014 passed u/s 143(3) is bad both on the facts and in law.*
2. *That in any view of the matter the proceeding initiated u/s 148 is illegal proceedings since the reasons for issue of notice u/s 148 was not supplied to the assessee nor any opportunity was provided by the Assessing Officer in making compliance and simply assessing officer on the basis of his own presumption made addition which action is highly unjustified.*

3. *That in any view of the matter the learned CIT (A) was not correct and deciding the appeal exparte without providing reasonable opportunity to the assessee and simply in two lines appeal was decided exparte hence the order of learned CIT (A) is not speaking order in the eyes of law.*
4. *That in any view of the matter addition of Rs. 57,810/- out of business income as made by assessing officer and confirmed by CIT (A) is highly unjustified.*
5. *That in any view of the matter addition of Rs. 6, 02, 400/- out of investment in truck as added u/s 69 by the Assessing Officer and confirmed by CIT (A) is unjustified.*
6. *That in any view of the matter the addition of Rs. 6,02,400/- is not correct in so far as the investment in truck was made from definite sources as well as out of finance from Tat Motors but the said fact was altogether ignored by both the two lower authorities hence addition made is highly unjustified.*
7. *That in any view of the matter the addition of Rs. 10,04,000/- as made by the Assessing officer as unexplained investment added u/s 69A and his action as confirmed by CIT (A) is highly unjustified.*
8. *That in any view of the matter the investment in purchase of truck was from definite sources but both the two lower authorities failed in taking cognizance of the details of investment nor any opportunity was provided to assessee for explaining source of investment hence the addition made is highly unjustified.*
9. *That in any view of the matter the appellant reserves his rights to take any fresh ground of the appeal before hearing of the appeal.*

It is therefore prayed that a suitable order may kindly be passed and relief may please be allowed accordingly.”

3. At the time of hearing, the Ld. counsel for the assessee has submitted that the ground no. 3 may be taken up first as the CIT(A) has dismissed the appeal of the assessee while passing the impugned exparte order without giving appropriate opportunity of hearing to assessee or deciding the issue on merits. The Ld. AR pleaded that the assessee may be granted one more opportunity to present his case before the CIT(A) and hence the impugned order of the CIT(A) may be set aside and the matter may be remanded to the record of the CIT(A) for afresh adjudication.

4. On the other hand, the Ld. DR objected to the plea of assessee and submitted that the CIT(A) granted the more than sufficient opportunities to the assessee. It is pertinent to note that despite several notices issued by CIT(A) through registered post cause none attended on behalf of the assessee and consequently the CIT(A) had no option bar to pass the impugned exparte orders. He has relied upon the order passed by authorities below.

5. I have considered the rival submissions as well as relevant material on record. The Assessing Officer in the scrutiny assessment has made addition on account of unexplained investment for purchase of trucks to the tune of Rs.6,02,400/- as well as addition of Rs.10,04,100/- on account of unexplained deposit made in the bank account of the assessee. Apart from these two addition, the Assessing Officer has also made small addition of Rs.57,810/- on account of the estimation of the income from five trucks u/s 44AE of the I. T. Act, 1961. The assessee challenged the action before the CIT(A) however, despite several notices none appeared on behalf of the assessee. Though the CIT(A) has granted sufficient opportunities to the assessee which were not granted by the assessee however, the CIT(A) while passing the impugned order has just confirmed the assessment order without discussing the correctness of the addition made by the Assessing Officer. Hence the impugned order of the CIT(A) while dismissing the appeal of the assessee is not a speaking order but the order of the Assessing Officer is confirmed summarily. Since the issue of addition made on various accounts requires verification of relevant fact and details to be furnished by the assessee therefore, in the facts and circumstances of the case and in the interest of justice once more opportunity is granted to the assessee to present his case before the CIT(A). Accordingly, the impugned order of the CIT(A) is set aside and the matter is remanded for fresh adjudication after giving one more opportunity of hearing to the assessee. In the case, the assessee fails to appear before the CIT(A) no further opportunity shall be granted to the assessee. Since the matter is set aside

to the record of the CIT(A) for afresh adjudication. The other ground raised by assessee become infructuous.

6. For the A.Y.2013-14, the assessee has raised various grounds including the ground against the exparte order passed by CIT(A). Since both the order passed by CIT(A) for the A.Y.2007-08 and 2013-14 are identical without discussing any issue, therefore, in view of the fact that the matter for A.Y.2007-08 is set aside to the record of the CIT(A) for fresh adjudication the matter for the A.Y.2013-14 is also set aside with similar directions.

7. In the result, the appeals of the assessee for A.Ys. 2007-08 and 2013-14 are allowed for statistical purposes.

Order pronounced in the open Court on 15/07/2021.

Sd/-
[VIJAY PAL RAO]
JUDICIAL MEMBER

DATED: 15/07/2020
Allahabad
Vijay Pal Singh (Sr. PS)

Copy forwarded to:

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

//True Copy//

By order
Assistant Registrar