

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**CHANDIGARH BENCH, "SMC", CHANDIGARH**

**BEFORE SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

आयकर अपील सं./ **ITA No. 424/CHD/2022**

निर्धारणवर्ष / Assessment Year : 2017-18

Sh. Naveen Kumar, 101, Laxmi Enclave, Dhakoli, Zirakpur, Mohali 140603	बनाम	The ITO, Ward-3(5), Chandigarh
स्थायी लेखा सं./PAN NO: AXJPK8968P		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : Sh. Amitaoz Singh Kamboj, CA

राजस्व की ओर से/ Revenue by : Sh. Akashdeep, JCIT

सुनवाई की तारीख/Date of Hearing : 04.09.2022

उद्घोषणा की तारीख/Date of Pronouncement : 06.09.2022

**आदेश/Order**

**Per Sudhanshu Srivastava, Judicial Member:**

This appeal has been preferred by the assessee against the order of the National Faceless Appeal Centre [NFAC], Delhi (in short the 'NFAC') dated 09.03.2022 relating to assessment year 2017-18, passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'Act').

2.0 The brief facts of the case are that the assessee had filed his return of income declaring taxable income of Rs. 2,34,920/-. The case was selected for limited scrutiny through CASS for the reason of large value cash deposits during the demonetization period. The assessee was required to explain, by the AO, the source of cash deposits in the Yes Bank account amounting to Rs. 10,06,500/- and further cash

deposits against credit card amounting to Rs. 1,29,000/-. Since the assessee did not file any documentary evidence nor furnished any explanation before the AO, the AO proceeded to complete the assessment u/s 144 of the Act after making an addition of Rs. 11,35,500/- u/s 69A of the Act by treating the impugned cash deposits as unexplained money. The AO also invoked the provisions of section 115BBE of the Act for the purpose of taxing such income.

2.1 Aggrieved, the assessee preferred an appeal before the Ld. NFAC which came to be dismissed on the ground that the assessee had not responded to the notices issued by the AO from time to time and further there was no documentary evidence on record vis-a-vis the source of cash deposits.

2.2 Aggrieved, the assessee has now approached this Tribunal challenging the order of the NFAC by raising the following grounds of appeal:-

1. *The Ld. CIT(A) has erred in laws and on the facts of the case by confirming the additions made by the Ld. AO amounting to Rs. 11,35,500/- on account of unexplained cash deposits ignoring the fact that the same were duly explainable.*
2. *The Ld. CIT(A) is unjustified in not accepting the additional evidence served under Rule 46A of Income Tax Rules.*
3. *The Ld. CIT(A) has erred in law as the assessee was not given ample opportunity to explain his position.*

4. *The appellant craves permission to file / raise / amend any; other ground of appeal at the time of hearing.*

3.0 At the outset, the Ld. Authorised Representative (AR) submitted that the AO had passed the order ex-parte qua the assessee and the Ld. NFAC had also upheld the action of the AO without considering the submissions of the assessee in this regard. It was submitted that the Ld. NFAC should have adjudicated the issue before it on merits rather than just confirming the action of the AO without looking into various details and submissions made by the assessee before the Ld. NFAC. The Ld. AR submitted that the assessee should be given another opportunity to present his case.

4.0 Per contra, the Ld. Sr. DR submitted that there was apparent contradiction regarding the source of cash deposit. It was submitted that before the AO, a case had been made out that the cash deposits pertained to money received from relatives / family members for the purpose of purchase of plot whereas, before the Ld. NFAC, the assessee had submitted that the cash deposits pertained to the work of the assessee who was employed as a recovery agent for a telecom company. It was submitted that, therefore, no useful purpose would be served by giving another opportunity to the assessee for the reason that the assessee was trying to hoodwink the Revenue authorities by

changing his stand. It was prayed that the appeal of the assessee be dismissed.

5.0 I have heard the rival submissions and have also perused the material on record. The fact remains that the assessment order was passed ex-parte and a perusal of the assessment order would show that the assessee, despite repeated notices having been served upon him, did not respond nor did furnish any documentary evidence explaining the source of impugned cash deposits. In such a situation, obviously, the AO did not have any other option but to proceed with the completion of assessment in terms of section 144 of the Act by adding the entire unexplained cash deposits as assessee's unexplained income. However, the assessee, during the course of First Appellate proceedings, did furnish various evidences and submissions before the Ld. NFAC like copy of bank statement and the credit card statement as well as copy of employments letter with the telecom company etc. The assessee sought to file these documents as additional evidences before the Ld. NFAC. However, the Ld. NFAC simply ignored the submissions and the documents being sought to be filed as additional evidences and dismissed the assessee's appeal without even commenting on the submissions or the documents being sought to be so admitted. It is my considered view that the Ld. NFAC was patently and legally wrong in adopting this kind of practice. Natural justice required that the assessee's submissions and documents be

considered on merits. I do agree with the argument of the Ld. Sr. DR that there is an apparent contradiction in the version of the assessee regarding the source of cash deposits before the AO and later before the Ld. NFAC but all the same, law required that the Ld. NFAC should have adjudicated the assessee's case on merits. Therefore, in the interest of substantial justice, I deem it appropriate to direct that the documents being sought to be filed as additional evidences be admitted and, thereafter, the assessee's case be decided on merits after giving proper opportunity to the assessee to present his case by the AO. It is so directed accordingly.

6.0 In the final result appeal of the assessee stands allowed for statistical purposes.

Order pronounced on 05.09.2022

Sd/-

**(SUDHANSHU SRIVASTAVA)**  
**Judicial Member**

**Dated : 05.09.2022**

“आर.के.”

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. आयकरआयुक्त (अपील)/ The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT,  
CHANDIGARH
6. गार्डफाईल/ Guard File

आदेशानुसार/ By order,

सहायकपंजीकार/ Assistant Registrar