

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No.33/Asr/2021
Assessment Year: 2009-10**

Mohammad Yousuf Trumboo 6, Raj Bagh, Srinagar. [PAN:-ACGPT4627C] (Appellant)	Vs.	ITO, Ward-3(2), Srinagar. (J & K). (Respondent)
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Appellant by	None
Respondent by	Sh.S. M. Surendranath, Sr.DR.

Date of Hearing	31.08.2022
Date of Pronouncement	12.09.2022

ORDER

Per:Anikesh Banerjee, JM:

The instant appeal was filed by the assessee against the order of the Id. Commissioner of Income Tax(Appeals), NFAC, Delhi, [in brevity the CIT(A)] bearing appeal no.DIN & Order No. ITBA/NFAC/S/250/2020-21/1031248291(1),

date of order 05.03.2021, the order passed u/s 250(6) of the IT Act 1961, [in brevity the Act] for A.Y. 2009-10. The impugned order was originated from the order of the Income Tax Officer, Ward 3(2), Srinagar, (in brevity the AO) order passed u/s 144/147 of the Act date of order 05.12.2016.

2. The brief fact of the case is that as per AIR /CIB information the assessing authority assessed the payment against credit card amount to Rs.5,52,000/- into the bank during the relevant Assessment Year. The information was asked by issuing of notice u/s 133(6) of the Act. Without response of the assessee the assessment was completed by addition amount of Rs.5,52,000/- u/s 144/143(3) on account of payment against credit card into bank. Aggrieved assessee filed an appeal before the ld. CIT(A). The ld. CIT(A) upheld the order of the AO.

3. Aggrieved assessee filed an appeal before us.

4. During the hearing proceeding before the ITAT, none was present on behalf of the assessee. The matter was taken up with the consent of the ld. Sr. DR for adjudication. The assessee deposited cash Rs.5,52,000/- in bank account for payment against credit card. The notice u/s 133(6) was issued for calling information. Returned was not filed by the assessee. The assessment was also

completed u/s 144. During the appellate proceeding the assessee made explanation and mention that the assessee is director of company and payment was made by the company through his bank account. But appellate authority was not satisfied with the explanation of the assessee. The ld. CIT(A) upheld the order of the AO.

5. The ld. Sr. DR argued and relied on the orders of revenue authorities.

6. We consider the documents available in the record and the orders of both the revenue authorities. After thoughtful consideration of the above-mentioned matter the verification was incomplete from the end of the revenue. The notice was issued u/s 133(6) against the assessee. No statement, from bank or credit card was asked for verification related to the above mentioned transaction. The assessee claimed that the amount was paid from his company account. The account of the said company was not verified by any of the revenue authorities. In our opinion the assessment was made and also the appeal was completed without lack of verification. As a result, there is no justification for sustaining the order of the ld. CIT(A). We are setting aside the order before the AO for further verification of the deposit of cash amount of Rs.5,52,000/-. Needless to say that the AO shall provide proper and adequate opportunity of being heard to the assessee in set aside

proceedings. The evidences/explanations submitted by assessee in its defence shall be admitted by AO, and adjudicated by AO on merits in accordance with law. We order accordingly.

7. In the result, the appeal of the assessee in **ITA 33/Asr/2021** is allowed for statistical purposes.

Order pronounced in the open court on 12.09.2022

Sd/-

(Dr. M. L. Meena)
Accountant Member

Sd/-

(ANIKESH BANERJEE)
Judicial Member

AKV

Copy of the order forwarded to:

- (1)The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By Order