

**THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH MUMBAI**

**SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER
&
MS. KAVITHA RAJAGOPAL, JUDICIAL MEMBER**

**ITA NO.1151/MUM/2022
(A.Y.2012-13)**

Vikram Babulal Shah 3 rd Floor, Room No. 73, Shreenathji Building, Gulalwadi, 142, Kika Street, Mumbai-400 004 PAN No.CDOPS4473E	V/s	Income Tax Officer-19 (3) (5) Room No. 201, 2 nd Floor, Matru Mandir, Tardeo Road, Mumbai-400 007
Appellant		Respondent

Assessee by	K Gopal
Department by	Ms. Vranda U. Matkari Sr. AR
Date of Hearing	04.08.2022
Date of Pronouncement	01.11.2022

ORDER

PER KAVITHA RAJAGOPAL:

This appeal has been filed by the assessee as against the order of learned Commissioner of Income Tax (Appeals)-30, Mumbai [hereinafter referred to as “CIT(A)”] passed under section 250 the Income Tax Act, 1961 (hereinafter referred to as “the Act”) vide order dated 22.03.2022 pertaining to assessment year 2012-13. The assessee has challenged the assessment order dated 28.12.2019 passed u/s 144 r.w.s.



147 of the Act and has also challenged the addition made u/s 68 of the Act on unexplained cash credit amounting to Rs.40,36,930/-.

2. Briefly stated the assessee has not filed his return of income for the impugned year and assessee's case was reopened u/s 148 of the Act on 28.03.2019. It is observed that the assessee has not responded to the notices issued u/s.142(1) dated 05.11.2019 and 02.11.2019. Pursuant to that the Assessing Officer (AO) passed the best judgment order u/s 144 of the Act on presumptive basis dated 28.12.2019. It is observed that the assessee had deposited cash in the bank account amounting to Rs.40,36,930/- during the impugned year and since, the assessee had not filed his return of income, the AO had reason to believe that income has escaped assessment and thereby reopened the case of the assessee. The AO added the impugned amount to the total income of the assessee after conducting due enquiry by issuing notices u/s133(6) of the Act to Kotak Mahindra Bank and State Bank of India, where the assessee had maintained his bank accounts. The assessee preferred an appeal before the learned CIT(A) challenging the assessment order. Even before the First Appellate Authority the assessee made no compliance. The learned CIT(A) confirmed the order of the AO on the ground that the assessee has failed to



furnish documents/evidences to substantiate his claim. The assessee is in appeal before us as against the order of learned CIT(A).

3. The learned Authorised Representative (AR) for the assessee contended that the assessee may be given one last opportunity to furnish documents/evidences to substantiate the cash deposits reflected in the assessee's account by producing proper source for the same before the learned AO. The learned Departmental Representative (DR) had nothing to controvert pertaining to the assessee's request and relied on the decision of the lower authorities.

4. Having heard the rival submissions and perused the materials on record, we find that the assessee has not made due compliance before the lower authorities. On the request of the learned AR to give one last opportunity to produce documents/evidences before the AO, we deem it fit to remand this to the file of the learned AO for *de nova* adjudication by considering the evidences that are proposed to be filed on behalf of the assessee on principles of natural justice. The AO is directed to decide this case on merits on perusal of the evidence/documents produced by the assessee.



5. In the result, the appeal is allowed for statistical purpose.

Order pronounced in the open court on 01.11.2022.

Sd/-

Sd/-

(S RIFAUH RAHMAN)

(KAVITHA RAJAGOPAL)

ACCOUNTNANT MEMBER

JUDICIAL MEMBER

Mumbai:

Dated: 01/11/2022

MAHESH SONAVANE (P.S)

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. DR, ITAT, Mumbai
5. Guard File.

BY ORDER,

//True COPY//

(Assistant Registrar)

ITAT, Mumbai