

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC": NEW DELHI**

**BEFORE
SHRI SAKTIJIT DEY, JUDICIAL MEMBER**

ITA No. 353/Del/2022
Asstt. Year : 2012-13

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| Akshat Jain, C-102, Surya Nagar, Ghaziabad Uttar Pradesh 201001 PAN AJPPJ2541R | Vs. | ITO, Ghaziabad. |
| (Appellant) | | (Respondent) |

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| Assessee by: | Shri Sidharth Goel, Advocate |
| Department by : | Shri Om Prakash, Sr. DR |
| Date of Hearing | 23.08.2022 |
| Date of pronouncement | 14.11.2022 |

ORDER

This is an appeal by the assessee against order dated 06.12.2021 passed by the National Faceless Appeal Centre (NFAC), Delhi for the assessment year 2012-13.

2. The issue in the present appeal is confined to addition of an amount of Rs. 14,22,000/-, being the cash deposited in the bank account.

3. Briefly, the facts are, the assessee is a resident individual. For the assessment year under dispute, the assessee filed his

return of income on 31.03.2013 declaring total income of Rs. 1,97,980/-. Subsequently, based on AIR information available on record, the Assessing Officer noticed that for the year under consideration, the assessee had deposited cash amounting to Rs. 14,22,000/- in his saving bank account. Being of the view that income to the extent of cash deposit made in the bank account has escaped assessment, the Assessing Officer reopened the assessment under section 147 of the Act. As alleged by the Assessing Officer, the assessee did not comply with the statutory notices issued under section 148 and 142(1) of the Act. Thus, in absence of any compliance by the assessee, the Assessing Officer proceeded to complete the assessment under section 144 of the Act, to the best of his judgement. While doing so, he added back the amount of Rs. 14,22,000/- under section 69 of the Act. Though the assessee contested the aforesaid addition before learned Commissioner (Appeals), however, the addition was sustained.

4. I have considered rival submissions and perused material on record. Undoubtedly, the assessee did not appear before the Assessing Officer to explain the source of cash deposit in the bank account. However, before learned First Appellate Authority,

the assessee explained that the cash deposits were out of the business receipts of Rs. 14,70,480/-, on which, the assessee has offered income on presumptive basis under section 44AD of the Act. The fact that the assessee had gross business receipts of Rs. 14,70,480/- and offered income on presumptive basis is evident from the income tax return filed by the assessee and has not been disputed by the departmental authorities. The reason for which the departmental authorities have treated the cash deposits made in the bank account as income of the assessee is, no evidence was produced by the assessee either before the Assessing Officer or before learned Commissioner (Appeals) . In this regard, the contention of learned Counsel for the assessee before me is to the effect that cash deposits in the bank account were out of business receipts and given an opportunity, the assessee would furnish the requisite documentary evidences.

5. Having considered the submissions of the parties, I am inclined to restore the issue to the file of the Assessing Officer for fresh adjudication after due opportunity of being heard to the assessee. It is open to the assessee to furnish the requisite documentary evidences to establish his case that the cash deposits made in the bank account were out of the business

receipts or any other source of income, which has already been offered to tax. With the aforesaid observation, the matter is set aside to the Assessing Officer.

6. In the result the appeal is allowed for statistical purposes.

Order pronounced in the open court on 14th November, 2022.

**sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER**

Dated: 14/11/2022

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

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| Date of dictation | |
| Date on which the typed draft is placed before the dictating Member | |
| Date on which the typed draft is placed before the Other Member | |
| Date on which the approved draft comes to the Sr. PS/PS | |
| Date on which the fair order is placed before the Dictating Member for pronouncement | |
| Date on which the fair order comes back to the Sr. PS/PS | |
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| Date on which the file goes to the Bench Clerk | |
| Date on which the file goes to the Head Clerk | |
| The date on which the file goes to the Assistant Registrar for signature on the order | |
| Date of dispatch of the Order | |