

**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW BENCH 'A', LUCKNOW**

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT  
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

ITA No.55/Lkw/2021  
Assessment Year:2017-18

Shri Jeevan Kumar Saxena, 13, Bahron Tola, Chowk, Lucknow. PAN:AQSPS5375A (Appellant)	Vs.	Income Tax Officer-6(2), Lucknow.  (Respondent)
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Appellant by	None
Respondent by	Smt. Alka Singh, D.R.
Date of hearing	29/11/2022
Date of pronouncement	30/11/2022

**ORDER**

**PER BENCH:**

This appeal filed by the assessee is arising out of the order of learned CIT(A)-2, Lucknow in appeal No. CIT(A), Lucknow-2/10506/2019-20 dated 21/09/2020 against the assessment order passed by Income Tax Officer (6)-2, Lucknow u/s 143 of the I.T. Act (hereinafter referred to as the "Act") dated 17/12/2019 for assessment year 2017-18.

2. Brief facts of the case are that the assessee is engaged in wholesale and retail trade of gold ornaments. The return of income was filed on 25/10/2017 reporting total income of Rs.11,27,830/-. The Assessing Officer in the course of assessment proceedings noted that assessee has disclosed total receipts of Rs.3,49,66,567/- against which net profit of Rs.12,69,186/- was reported in the profit & loss account. Among other things, Assessing

Officer noted that assessee failed to produce books of account with supporting documents for verification and examination and thus completed the assessment based on material available on record. By observing this, Assessing Officer noted that he is not satisfied about the correctness and completeness of accounts in terms of section 145(3) of the Act and he estimated the profit by applying rate of 8% on the total receipts of Rs.3,49,66,567/- working out at Rs.27,97,325/-. An addition was made to the total income for Rs.15,28,139/- after giving credit for the net profit already disclosed by the assessee in his return. Aggrieved, the assessee went in appeal before CIT(A). learned CIT(A) upheld the rejection of books of account so made by the Assessing Officer and upheld the addition made by the Assessing Officer on account of net profit. Aggrieved, the assessee is in appeal before the Tribunal.

3. Before us, adjournment application has been moved from the office of the Learned counsel for the assessee Shri Ashish Raj Shukla, Advocate dated 28/11/2022 seeking adjournment owing to he is suffering from Dengue and having high fever. Considering the facts and the material on record, we find it appropriate to adjudicate the matter ex-parte qua the assessee by rejecting the said adjournment application and by taking assistance from the learned Sr. D.R. Smt. Alka Singh.

4. From the perusal of the assessment order we noted that Assessing Officer has observed that in response to notices issued by him assessee has made compliance from time to time through e-proceedings. He has also noted that facts of the case and the submissions of the assessee have been examined/considered thoroughly. In the same assessment proceedings, the Assessing Officer had made an addition of Rs.45 lacs towards deposit of cash in the bank account by treating it as unexplained cash credit which on appeal before learned CIT(A) has been deleted. Learned CIT(A) has

observed the contention made by the assessee that books of account were submitted by him before the Assessing Officer who did not consider the same. Thus, there are stark contradiction in the submissions made by the assessee, observations made by the Assessing Officer and those by learned CIT(A) in respect of production of books of account for verification. Upon specific query by the Bench to learned Sr. D.R. if she had any objection on remitting the matter back to the file of the Assessing Officer to give an opportunity to the assessee to produce books of account as required by the Assessing Officer along with the supporting bills and vouchers to substantiate his claim, nothing was objected upon. Accordingly, to set right the contradiction, as stated above, in the interest of justice and fair play, we find it proper to remit the matter back to the file of the Assessing Officer for verification of books of account and bills and vouchers and accordingly assess the net profit of the assessee in accordance with the provisions of the Act. Needless to say, the assessee be given reasonable opportunity of being heard and make all necessary submissions to substantiate his claim.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

(Order pronounced in the open court on 30/11/2022)

**Sd/.**  
**(MAHAVIR SINGH)**  
**Vice President**

**Sd/.**  
**(GIRISH AGRAWAL)**  
**Accountant Member**

Dated:30/11/2022

\*Singh

**Copy of the order forwarded to :**

1. The Appellant
2. The Respondent.
3. Concerned CIT
4. The CIT(A)
5. D.R., I.T.A.T., Lucknow

Assistant Registrar