

आयकर अपीलीय अधिकरण, पीठ "A-SMC" , कोलकाता  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
BENCH "A-SMC" KOLKATA**

Before: Shri Manish Borad, Hon'ble Accountant Member

आयकर अपील सं.य/ <b>ITA No.557/Kol/2022</b> <b>Assessment Year: 2016-17</b>		
<b>Sanhita Ghosh</b> 2B, Chandra Mandal Lane, Kolkata-700 26.	<u>बनाम</u> V/s.	<b>I.T.O., Ward 29(3)</b> 2 Gariahat Road (S), 4 <sup>th</sup> Fl., Kolkata-700 068.
<b>PAN: BPMPG7905Q</b>		
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent
अपीलार्थी की ओर से/By Appellant		Shri Surendra Joshi, AR,Ld.AR
प्रत्यर्थी की ओर से/By Respondent		Shri Vijay Kumar, Addl.CIT/Ld.DR
सुनवाई की तारीख/Date of Hearing		12-12-2022
घोषणा की तारीख/ Date of Pronouncement		15-12-2022

**आदेश / O R D E R**

The instant appeal of the assessee for the assessment year 2016-17 is directed against the order dt. 04-08-2022 passed u/s. 250 of the Income-tax Act, 1961 [ hereinafter, referred to as 'the Act'] by the Id. Commissioner of Income-tax, Appeals [ in short, hereafter referred to as 'the 'Id. CIT(A) (National Faceless Appeal Centre), Delhi

2. The assessee has raised the following grounds of appeal:-

1. *That Ld. CIT(A) erred in law and on facts of the case in holding the assessment made on original return filed on 26.97.2016 as valid although assessee filed a revised return of income on 31.03.2018.*

*2. That under the facts and circumstances of the case, the order of assessment passed under sec. 144 on the original return of income dated 26.07.2016 is invalid, bad in law and void.*

*3. Because Ld. AO erred in law and on the facts and circumstances of the case in making an addition of Rs. 39,30,000 as unexplained cash credit under sec. 68 and computation of income under sec. 115BBE of the Income Tax Act,1961.*

*4. Because for the facts and circumstances warranting the assessee craves leave to alter, amend, withdraw any ground or grounds of appeal.*

3. At the outset, the Ld. Counsel for the assessee stated that the order of the Id. AO is *ex parte* framed u/s. 144 of the I.T Act, 1961. Even before the Id. CIT(A) the assessee could not appear for reasonable cause. The Ld. Counsel for the assessee also submitted that the facts mentioned by the Id. AO are not correct since one of the bank accounts referred in the assessment order was opened after FY 2015-16 and cash deposit amounts alleged to be unexplained by the assessee are also incorrect. Therefore, he prayed that the issue(s) on merits may be restored to the Ld. Assessing Officer for fresh adjudication and providing opportunity to furnish the evidence(s) in support of the grounds raised in the instant appeal.

4. On the other hand, the Ld. Departmental Representative vehemently argued supporting the orders of the lower authorities.

5. I have heard the rival contentions and perused the record placed before me. I notice that the assessee is an individual. After the case being selected for scrutiny the assessee was asked to explain the source of cash deposited in the bank accounts. The Id. AO has mentioned about the undisclosed bank accounts. Out of which one being held with ICICI Bank and the other with SBI. The Id. AO asked the assessee to explain the cash deposits of Rs.39,30,000/- in these bank accounts. The assessee could not appear before the Id.AO and

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therefore, best judgment assessment framed u/s. 144 of the Act. Even before the Id. CIT(A) the assessee could not plead her case by appearing and filing necessary evidence.

6. Before me it is stated by the Id. Counsel for the assessee that out of two bank accounts held with the ICICI Bank account bearing number 331801000100 was opened in subsequent financial year i.e FY '16-17 and therefore, the Id. AO erred in considering this bank account for the year under appeal. It is also stated that correct figure of cash deposit amount is Rs.23,82,000/- and not Rs. 39,30,000/-. In support of this contention, the assessee has filed a paper book on 23-11-2022.

7. I, therefore, under the given facts and circumstances of the case, being fair to both the parties and in the interest of natural justice and considering that the orders of the lower authorities are *ex parte* and certain factual errors are pointed out by the Id. Counsel for the assessee, deem it fit and proper to restore all the issue(s) raised on merits before me to the Id. AO for *denevo assessment* after considering the submissions to be made by the assessee on being provided reasonable opportunity of being heard. The assessee is also directed to remain *vigilant* and should not take adjournment unless otherwise required on reasonable cause. In case the assessee fails to appear on two consecutive dates of hearing without reasonable cause the Id.AO can proceed in accordance with law. Thus, all the grounds raised by the assessee are allowed for statistical purpose.

8. In the result, the appeal of assessee is allowed for statistical purpose.

Sd/-

(MANISHBORAD)  
ACCOUNTANT MEMBER

Dated : 15-12-2022

**\*\*PP/SPS**

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

**1.अपीलार्थी/Appellant/:Sanhita Ghosh**

2B, Chandra Mandal Lane, Kolkata-700 26.

**2. प्रत्यर्थी/Respondent/:I.T.O., Ward 29(3)**

2 Gariahat Road (S), 4<sup>th</sup> Fl.,Kolkata-700 068.

**3. संबंधित आयकर आयुक्त / Concerned CIT**

**4. आयकर आयुक्त- अपील / CIT (A)**

**5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata**

**6.गार्डफाइल/Guardfile.**

**By order/आदेश से, /True Copy/**

**Assistant Registrar  
ITAT, Kolkata**