

**IN THE INCOME TAX APPELLATE TRIBUNAL  
JODHPUR BENCH, JODHPUR**

**BEFORE SHRI B. R. BASKARAN, ACCOUNTANT MEMBER  
AND  
Dr. S. SEETHALAKSHMI, JUDICIAL MEMBER**

**ITA Nos. 80/Jodh/2022**  
**(ASSESSMENT YEARS- 2016-17)**

Lokesh Sethiya E-96/5 E-96/5, Gandhi Nagar, Chittorgarh-312001.	Vs	Income Tax Officer Front Road, Chittorgarh
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>PAN NO. BCDPS 7722 K</b>		

<b>Assessee By</b>	Shri Rajendra Jain (Advc.)
<b>Revenue By</b>	Ms. Nidhi Nair, JCIT-DR
<b>Date of hearing</b>	16/01/2023
<b>Date of Pronouncement</b>	20/01/2023

**ORDER**

**PER: Dr. S. Seethalakshmi, JM**

This is an appeal filed by the assessee aggrieved from the order of the National Faceless Appeal Centre, Delhi (herein after referred as “NFAC” ), Ld. CIT(A) for the assessment years 2016-17 dated 31.03.2022, which in turn arises from the order passed by the Income Tax Officer, Wad-2, Chittorgarh passed under Section 143(3) of the Income Tax Act, 1961 (in short 'the Act') dated 14.12.2018.

2. The assessee has raised the following grounds:-

*“1. That on the facts and in the circumstances of the case, the ld. CIT(A) has erred in sustaining the addition of Rs. 12,24,265/- being cash deposited in bank account treating the same as unexplained income without going into factual matrix of the case.*

*2. That the petitioner may kindly be permitted to raise any additional or alternative grounds at or before the time of hearing.”*

3. The AO observed that the assessee has failed to clarify/ explain the difference of cash deposit(s) of 12,24,265/- between Bank Statement (Rs. 37,79,300/-) and Sales & Gross Receipts (Rs. 25,55,035/-). The onus is upon assessee to explain the source of cash credit transactions made in the bank A/c. and to prove the genuineness of the cash deposits also lies with the assessee, but he has failed to discharge his onus. Since, the assessee has not furnished any satisfactory explanation with regard to the source of cash deposits made in his bank account, the difference of Rs. 12,24,265/- is un-explained income. As no source of income for cash deposits has been explained by the assessee, the amount of Rs. 12,24,265/- is added to the total income of the assessee. As the assessee has intentionally concealed the particulars of income, it is a fit case for initiation of penalty proceeding u/s 271(1)(c) of IT Act, 1961.

With the above remarks total income of assessee for the assessment year 2016-

17 is computed as under:-

Total income as per return filed	Rs. 3,66,870/-
Add: unexplained cash credit as discussed above.	Rs. 12,24,265/-
Total income	Rs. 15,91,135/-
Round off	Rs. 15,91,140/-

Assessed at income of Rs. 15,91,140. Demand notice & challan are issued as per ITNS 150 prepared in consequence of this order. Interest charged u/s 23A, 234B and 234C as per norms. Penalty proceedings initiated separately u/s 271(1)(c) of the IT Act, 1961 for concealment of income.

4. Being aggrieved by the AO the assessee preferred an appeal before the Id. CIT(A) and the findings are reproduced as under:-

*“5. I have gone through the assessment order, the grounds of appeal and statement of facts. Only issue in the assessment was the difference between the total cash deposits and the turnover shown by the assessee in the books. Assessee gave explanation for Rs.5,00,000 which was accepted by the AO. However, in-spite of giving multiple opportunities, assessee failed to explain the balance difference. The difference between the total deposits in the bank account and the total sales turnover shown is a fact, it was for the assessee to explain and reconcile the difference. He could explain only Rs.5,00,000 and could not explain for the balance amount of Rs. 12,24,265/- even after affording several opportunities. Even in appeal proceedings no effort has been put in by the appellant to reconcile the difference. Therefore, I have no hesitation in upholding the order of the AO. The addition is confirmed. Lone ground of appeal is dismissed.”*

5. Now the assessee is in appeal.

6. The ld. DR has no objection for remand back the matter to the ld. CIT(A) and the ld. DR insisted upon heavy cost to the assessee.

7. The assessee neither appeared before the AO nor before the CIT(A). Hence, with a view to providing one more opportunity to the assessee the appeal of the assessee is remanded back to the file of the Ld. CIT(A) with the direction to examine his case afresh by providing ample opportunity to the assessee. Hence, the Bench imposes cost of Rs. 2,000/- on the assessee for lethargic action before the lower authority and this amount of Rs. 2000/- to be remitted before Legal Cell of High Court, Jodhpur.

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

Order pronounced in the open Court on 20/01/2023.

Sd/-

(B. R. BASKARAN)  
ACCOUNTANT MEMBER

Sd/-

(Dr. S. SEETHALAKSHMI)  
JUDICIAL MEMBER

Dated : 20 /01/2023

*\*Santosh*

Copy to:

1. The Appellant

2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR
6. Guard File

Assistant Registrar  
Jodhpur Bench