

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No.385/Asr/2019  
Assessment Year: 2008-09**

Reyaz Ahmad Rather C/o Sen Channel Nabera Complex Jehangir Chowk Srinagar. [PAN: AIQPR8085C] <b>(Appellant)</b>	<b>Vs.</b>	Income Tax Officer, Ward-3(3), Srinagar.  <b>(Respondent)</b>
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<b>Appellant by</b>	<b>None.</b>
<b>Respondent by</b>	<b>Sh. Ravinder Mittal, Sr. DR</b>

<b>Date of Hearing</b>	<b>21.02.2023</b>
<b>Date of Pronouncement</b>	<b>01.03.2023</b>

**ORDER**

**Per:Anikesh Banerjee, JM:**

The instant appeal of the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals)-1, Amritsar,[in brevity the ‘CIT (A)’] order passed u/s 250 (6) of the Income Tax Act 1961, [in brevity the Act] date of order 13.03.2019 for A.Y. 2008-09.The impugned order was emanated from the order of the Id. Income Tax Officer, Ward-3(3), Srinagar, (in brevity the AO) order

passed u/s 144/147 of the Act date of order 10.03.2016. The assessee has taken the following grounds:

*“1. Deposits in Yes Bank SB A/c No. 001390700000494 amounted to Rs.24,46,120.00 has been treated as Net income by the A.O instead of Turnover from the business of running Cable Network.”*

2. Brief fact of the case is that the assessee's case was reopened u/s 148 for depositing cash in the bank account with Yes Bank, SrinagarBranch and J & K Bank Ltd., SrinagarBranch. The total amount of cash was deposited Rs. 24,46,120/-. The assessee was non filer of ITR. The return was filed in persuasion of the notice u/s 148. Thereafter assessee declared the entire deposited cash as turnover and accordingly the turnover was declared amount of Rs.37,92,500/- in return and offered net profit @ 5% which is worked out the net profit amount to Rs.189625/-. The return was filed in persuasion of notice u/s 148.The ld. AO rejected the assessee's claim and the entire cash deposited in the bank account amount of Rs.24,46,120/- was added with the total income of the assessee. Aggrieved assessee filed an appeal before the ld. CIT(A) but remained unsuccessful. The assessee has challenged the order of the ld. CIT(A) before us.

3. When the appeal was called for hearing, no one appeared on behalf of assessee to represent his case. There is no application for seeking adjournment

either. On perusal of record, we find that the hearing is scheduled on 21/02/2023. Previously the dates were fixed number of times. In view of the above and considering the nature of dispute, we proceed to dispose the appeal *ex-parte qua* the assessee after hearing the learned DR and on the basis of material available on the record.

4. The Id. Sr. DR vehemently argued and fully relied on the order of the revenue authorities.

5. We heard the rival submission, consider the documents available in the record and observed the orders of the revenue authorities. The Id. counsel was filed written submission, which are kept in the record. The prayer of the assessee is that the assessee is running business under the trade name of M/s New World Link Cable Network for providing the business of cable network. During devastated floods in September 2014, in the Kashmir valley, the relevant documents are badly damaged with the business of the assessee. The assessee has taken plea that the assessee was unable to submit the documents before the revenue during assessment proceeding due to damage in flood. The assessee submitted the return by declaring the total turnover of Rs.37,92,500/- and declared the net profit as per provision of 44AF of the Act only in persuasion of notice U/s 148. The assessee submitted the Ledger account of Yes Bank and the copies of both the bank statements before the

bench, **APB page 11-30**. The Id. CIT(A) in his order observed that the assessee was unable to submit the requisite documents before the appellate authority during proceeding. So, the entire addition was confirmed. The relevant paragraph in page no. 3 of the CIT(A) order is extracted as below:

*“Decision- The assessee was sole proprietorship of assessee on Bernina main road, Srinagar concern carrying on the business of cable network in the name of M/s New World Link Cable Network which he is carrying on for last several years. The appellant has admitted that he does not have any books of accounts as they were destroyed in the floods of Sept, 2014. Therefore assessee has been unable to explain the source of deposits/credits entries in the bank account of assessee in YES bank. However details of deposit in bank account reveals and deposits by way of cash and credit entry and reversal entry and transfer from J&K bank account and interest totalling to Rs 24,46,119/-. The appellant has not submitted the copy of bank statement of his account in YES bank and therefore it cannot be verified if there were withdrawal entries therein and by cash or cheque. In absence of any return of income of assessee u/s 139(1) and 139(4) of the act and failure to justify that the deposits in the bank account were out of sales proceeds of assessee, the source of deposits to the tune of Rs. 24,46,119/- in*

*the bank account of the assessee remains unexplained and the addition of Rs.24,46,119/- is confirmed.”*

6. In our considered view, we find that the assessee has submitted the documents before the bench is entirely new one which was not properly verified before the lower authorities. We remit back the matter to Id. CIT(A) for further adjudication of assessee's claim. Needless to say the assessee should get a reasonable opportunity of hearing in setting aside proceeding.

7. In the result, the appeal of the assessee bearing **ITA No. 385/Asr/2019** is allowed for statistical purposes.

**Order pronounced in the open court on 01.03.2023**

Sd/-

**(Dr. M. L. Meena)**  
**Accountant Member**

Sd/-

**(ANIKESH BANERJEE)**  
**Judicial Member**

**AKV**

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy  
By Order