

**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.256/Asr/2019  
Assessment Year: 2014-15**

Sh. Rajesh Dhawan Prop. Aggarwal Agencies, Ferozepur City. [PAN:ACDPD5655K] <b>(Appellant)</b>	Vs.	ITO, Ward-3(2), Ferozepur.  <b>(Respondent)</b>
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<b>Appellant by</b>	Sh. Ashray Sarna, CA.
<b>Respondent by</b>	Smt. Balvinder Kaur, CIT. DR

<b>Date of Hearing</b>	08.05.2023
<b>Date of Pronouncement</b>	11.05.2023

**ORDER**

**Per:Anikesh Banerjee, JM:**

The instant appeal of the assessee was filed against the order of the Id. Commissioner of Income Tax (Appeals), Bathinda,[in brevity the CIT (A)] order passed u/s 250 (6) of the Income Tax Act 1961[in brevity the Act], for A.Y. 2014-15.The impugned order was emanated from the order of the Id.Income TaxOfficer,

Ward-3(2), Ferozpur [in brevity the AO] order passed u/s 143(3) of the Act date of order 27.12.2016.

2. The assessee has taken the following grounds: -

*“1. The orders passed by the Assessing Officer and Ld. Commissioner of Income Tax (Appeal) vide orders dated 27.12.2016 and 15.02.2019 respectively are illegal, uncalled for and against the law & facts.*

*2 The Ld. Commissioner of Income Tax (Appeal) has sustained the additions merely on conjectures and surmises without any legal basis.*

*3. That, the Ld. Commissioner of Income Tax (Appeal) has passed an Ex-parte order and sustained the additions without giving the opportunity of being heard. So the order of Ld. Commissioner of Income Tax (Appeal) should be set aside and calls for fresh adjudication with CIT(A), Bathinda.*

*4. That, the grounds of appeal raised with the Ld. Commissioner of Income Tax (Appeal) is as*

*(i) The Assessing Officer has made additions of Rs. 15,54,20,800/- merely under protective basis only to protect the interest of revenue not on the legal basis.*

(ii) *That the Assessing Officer has himself admitted in his order (Point no. 3 of Assessment Order) that the original beneficiary is M/s Ganesh Rice Mills, Muktsar and appellant is only name to the bank account.*

*In such circumstances, no addition can be made in the hands of appellant and even not on protective basis.*


(iii) *That the Assessing Officer has added the cash of Rs. 15,54,20,800/- in total. Nowhere he has made any cycle of the transactions. This is illegal and Additions in such a way cannot be made.*

(iv) *That the addition of Rs. 1.00 Lac for accommodating the account is wrong as expenses incurred against it, is not reduced.*

(v) *That the Assessing Officer has acknowledged the affidavit of the appellant regarding accommodating account and accepted the affidavit for accommodation transactions. So, additions made may please be deleted.*

(vi) *The assessee craves leave to argue on any other question of law or facts at the time of hearing of this appeal.”*

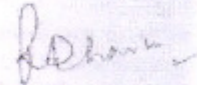
3. Brief fact of the case is that the addition was made by the Id. AO on basis of protective assessment related to transaction with M/s Ganesh Rice Mills, Muktsar, with assessee amount of Rs.15,54,20,800/-. As per the Id. AO, the assessee has opened a bank account deposited cash and issue cheque in favour of M/s Ganesh Rice Mills, Muktsar. Considering the cash deposit in bank account, the entire deposit was added in the hands of the assessee on protective basis U/s 69 of the Act. Though the substantive assessment was framed in the hands of M/s Ganesh Rice Mills, Muktsar. Aggrieved assessee filed an appeal before the Id. CIT(A). The Id. CIT(A) passed the *ex parte* order without considering the fact of the case or grounds of the assessee. Being aggrieved assessee filed an appeal before us.
4. During hearing, the Id. AR filed an affidavit of the assessee which is reproduced as below:



**AFFIDAVIT**

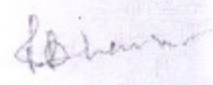
I, Rajesh Dhawan s/o Sh. Ram Parkash Dhawan R/o H.No.1777, Jhandi Mohalla, Ferozpur Talwandi Road, Ferozpur do hereby solemnly affirm and declare as under :-

1. That, I am assessed tax and have PAN- ACDPD5655K
2. That, Assessment in my case for the Assessment Year 2014-2015 has been completed U/S 143(3) of the Income Tax Act, 1961 and additions were made by the AO.
3. That, during the assessment proceedings we duly cooperated but during the course of Appellant proceedings due to my financial crises, I was not able to contact my counsel for Appeal & because of this I could not participate in the proceedings because of which an Ex-party order was passed by the Worthy CIT (A), Bhatinda.
4. That since we failed to participate in the appellate proceedings it is requested that another opportunity in my case may kindly be granted.
5. We further confirm that we will participate in the proceedings and will provide all the necessary evidences required for adjudication of the appeal.

  
Deponent

VERIFICATION-

Verified that the contents of the above affidavit are true and correct to the best of my knowledge and belief nothing has been concealed therein.

  
Deponent

4.1 The ld. AR prayed for setting aside the matter before the ld. CIT(A) for consideration the matter on merit.

5. The ld. DR vehemently argued and relied on the order of both the revenue authorities.

6. We heard the rival submission and considered the documents available in the record. The assessee through his affidavit specifically mentioned the reasons of *ex parte* before the Id. CIT(A). The revenue in the order of assessment had completed the assessment on protective basis. But there is no light about the fate of substantive assessment of the party, M/s Ganesh Rice Mills, Muktsar. The Id. DR has not made any strong objection about the affidavit of the assessee filed before the bench and was not able to enlighten the bench about the current position of substantive assessment. After considering the submission of the assessee, we remit back the matter to the Id. CIT(A) for *denovo* adjudication. Needless to say, the assessee should get a reasonable opportunity of hearing during appeal proceeding afresh.

7. In the result, the appeal of the assessee bearing **ITA No. 256/Asr/2019** is allowed for statistical purposes.

**Order pronounced in the open court on 11.05.2023**

Sd/-

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

AKV

Copy of the order forwarded to:

(1)The Appellant

Sd/-

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

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

True Copy  
By order