

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “SMC” BENCH: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &
DR. B.R.R.KUMAR, ACCOUNTANT MEMBER**

**ITA No.1474/Del/2023
[Assessment Year : 2012-13]**

Pawanveer Singh, Revoti Kunj, Railway Road, Hapur, Uttar Pradesh-245101. PAN-AFCPK0624F	vs	ITO, Ward-2(3)(5), Hapur.
APPELLANT		RESPONDENT
Appellant by		S/Shri K.M.Gupta, Adv. & Muninder Kumar, Adv.
Respondent by		Shri Om Parkash, Sr.DR
Date of Hearing		15.06.2023
Date of Pronouncement		21.06.2023

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee for the assessment year 2012-13 is directed against the order of Ld. CIT(A), National faceless Appeal Centre (“NFAC”), Delhi dated 03.03.2023.

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

1. *“On the facts and circumstances of the case & in law, the order dated 24.12.2019 passed by the Learned Assessing Officer [‘Ld.AO’], making an addition of INR 12,00,000/-, is in contradiction to provisions of the Act and is therefore, bad in law as void ab-initio.*
- 2) *On the facts and circumstances of the case & in law, the Ld. Commissioner of Income Tax (Appeals) [‘Ld. CIT(A)’] failed to grant a proper opportunity of being heard and has erred in passing an ex-parte order in contradiction to principles of natural justice.*
- 3) *On the facts and circumstances of the case & in law, the Ld. CIT(A) has erred in approving the addition made by the Ld. AO u/s 69 of the Income Tax Act, 1961 (‘the Act’), without appreciating that the*

Appellant had adequately explained the source of such deposit to the bank account.

- 4) *On the facts and circumstances of the case & in law, the Ld. CIT(A) as well as the Ld. AO failed to appreciate that the amount did not belong to the Appellant at all and had been deposited into the bank account on the behest of the Appellant's mother-in-law.*
- 5) *On the facts and circumstances of the case & in law, the Ld. AO has erred in initiating penalty under section 271(1)(c) of the Act.*
- 6) *On the facts and circumstances of the case & in law, the Ld. AO has erred in imposing interest under section 234B of the Act.”*

3. Facts giving rise to the present appeal are that in this case, the assessee is engaged in a small business of kirana merchant and regularly filed his return of income dated 05.07.2012 declaring a total income of INR 1,78,290/-. During the Financial Year 2011-12, the assessee had deposited a sum of INR 13,90,000/- in cash in his bank account No.720610110000469 maintained with State Bank of India. Further, the case of the assessee was re-opened u/s 147 of the Income Tax Act, 1961 (“the Act”). Thereafter, statutory notices u/s 148 and 142(1) of the Act were issued to the assessee but there was no compliance made on behalf of the assessee. Thereafter, a show cause notice dated 24.10.2019 was issued and sent to the assessee by speed post. In response thereto, Shri Munendra Kumar, Adv. attended the proceedings on behalf of the assessee and filed written reply alongwith Vakalatname, bank statement and ITR of the assessee for AY 2012-13. During the course of assessment proceedings, the assessee was required to explain the source of cash deposits amounting to INR 13,90,000/- made in his bank account. In response thereto, it was stated that the assessee had deposited a sum of INR 12,00,000/- out of the amount received from his mother-in-law, Smt.

Omwati Devi. However, the assessee failed to establish the creditworthiness and genuineness of this transaction despite affording various opportunities. Under these facts and circumstances of the case, the amount of INR 12,00,000/- remained unexplained and therefore, added to the income of the assessee u/s 69 of the Act under the head “income from other sources.” Thereafter, the AO framed the assessment u/s 147/143(3) of the Act vide order dated 24.12.2019 and assessed the income of the assessee at INR 13,78,290/- and initiated penalty u/s 271(1)(c) of the Act separately for concealment of income.

4. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, dismissed the appeal of the assessee.

5. Aggrieved against the order of Ld.CIT(A), the assessee preferred appeal before this Tribunal.

6. On the other hand, Ld. Sr. DR opposed these submissions and supported the orders of the authorities below.

7. We have heard Ld. Authorized Representatives of the parties and perused the material available on record. The authorities below made impugned addition on the ground that the assessee failed to explain the source of credit made in bank account. However, before Ld.CIT(A), the assessee by way of statement of facts had categorically stated that he had received a sum of INR 12,00,000/- from her mother-in-law who in turn had received a sum of INR 14,00,000/- by way of settlement of case no.558/2011 and 557/2011 in the Court. Ld. Tehsildar (Judicial), Hapur [Uttar Pradesh]. We find that the authority below did not make any further enquiry to verify the correctness of claim of the

assessee. Therefore, looking to the totality of the facts, we hereby set aside the impugned order and restore the assessment to the file of AO for making assessment afresh. The AO would verify the correctness of the claim of the assessee that the sum of INR 12,00,000/- was received from his mother-in-law and frame the assessment after providing adequate opportunity to the assessee. The assessee is hereby, directed not to seek any adjournment without any reasonable cause. The grounds raised in the appeal are allowed for statistical purposes.

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

Order pronounced in the open Court on 21st June, 2023.

Sd/-

(DR.B.R.R.KUMAR)
ACCOUNTANT MEMBER

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

** Amit Kumar **

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI