

IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, MUMBAI  
BEFORE SHIR PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 352/Mum/2023  
(A.Y: 2011-12)

Rajvinder kaur Balraj Singh Mahal, GroundNo.6,ChawlNo.82, Room No.19,79, TagorNagar,Vikhroli(E), Mumbai-400083.	Vs.	CIT(A), NFAC, New Delhi.
PAN/GIR No. : CIQPM2579G		
Appellant	..	Respondent

Appellant by :	Mr ChintanShah & Mr.HardikVora. AR
Respondent by :	Mr.Rajendra Chandekar.DR

Date of Hearing	02.05.2023
Date of Pronouncement	03.05.2023

आदेश / O R D E R

**PER PAVAN KUMAR GADALE JM:**

The appeal is filed by the assessee against the order of the National Faceless Appeal Centre (NFAC), Delhi/CIT(A) passed U/sec 143(3) r.w.s 147 and 250 of the Act.

2. At the time of hearing, the Ld.AR of the assessee submitted that there is a delay in filing the appeal before the Hon'ble Tribunal and filed an affidavit for

condonation of delay. Whereas, the facts mentioned in the affidavit are reasonable and the Ld.DR has no specific objections. Accordingly, condone the delay and admit the appeal. The assessee has raised the following grounds of appeal:

*Ground No. 1*

*The Ld. CIT (A) erred in confirming the addition made by Ld A.O and made Addition u/s 68 of Income Tax Act 1961 of Rs. 12,56,000/- (Rupees twelve lakhs fifty six thousand) as unexplained cash credit without considering the explanations provided by the Appellant during assessment*

*Ground No. 2*

*Appellant provided all the documents which were with her during assessment. The Ld. CIT (A) erred in not considering it along with Ld A.O though they were all genuine. Hence, it is requested to consider them for fair justice.*

*Ground No. 3*

*The Ld. CIT (A) erred in confirming the addition made by the Ld. A.O without considering the fact that the Appellant can have savings of Rs. 1,00,000/- which is minuscule considering the age of the appellant.*

*Ground No. 4*

*The Ld. CIT (A) erred in confirming the addition made by the Ld. A.O without considering the fact that Amount of Rs. 5,00,000/- was given by appellant's mother in Law as a gift by mortgaging the land which was owned by appellant's mother i.e. Pyaari Kaur for which appellant has also provided the supporting documents.*

*Ground No. 5*

*The Ld. CIT (A) erred in confirming that the Ld. A.O did not consider that Rs. 3,00,000/- was agricultural income of last three years (AY 2008-09, 2009-10, 2010-11). Also, CIT (A) erred in confirming that the Ld. A.O did not consider the agricultural loan amount of Rs. 1,09,000/- though Appellant provided Krishi Card issued by bank.*

*Ground No. 6*

*The Ld CIT (A) erred in confirming Ld. A.O erred to consider the traditional practice which is still done in rural area.*

3. The brief facts the case are that the assessee is engaged in the business of transport. The assessing Officer (AO) has received the information from NMS portal of ITD system that during the F.Y 2010-11 the assessee has made cash deposits of Rs.12,56,000/- in the Punjab & Maharashtra coop Bank Ltd. The assessee has not filed the return of income. The AO has reason to believe that the income has escaped

assessment and issued notice u/s 148 of the Act, and in compliance the assessee has filed the return of income. The AO has issued notice u/s 143(2) and 142(1) of the Act and were returned un served. The AO has issued notice U/sec 133(6) of the Act on the bank manager and received the new address of the assessee and issued notice u/s 142(1) of the Act. The assessee has filed the P&LA/c, Balance sheet, copy of return of income filed, bank statement and loan confirmation. The assessee was called to explain the sources of cash deposits in the bank account. Whereas the assessee has filed a letter dated 30.10.2018 explaining that the cash deposits were on account of sale of jewellery and loan taken from her husband, brother and mother-in-law but no documentary evidence was produced. The A.O has asked the assessee to submit the details of sale bill of jewellery and details of persons from whom the loans are obtained along with return of income, computation of income and bank statements. The assessee has filed the some details on 24-12-2018. Whereas, the AO has dealt on the facts with respect to the transactions of sources and details and was not

satisfied with the explanations and made an addition of Rs.12,56,000/- and assessed the total income of Rs.14,63,480/- and passed the order u/s 143(3) r.w.s 147 of the Act dated 28.12.2018.

4. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and has issued notices of hearing and since there was no compliance by the assessee to notices. Therefore the CIT(A) considering the information on record has confirmed the action of the A.O and dismissed the appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

5. At the time of hearing, the Ld. AR submitted that the CIT(A) has erred in confirming the action of the Assessing officer overlooking the submissions made in the assessment proceedings. Further the assessee has a good case on merits and shall substantiate with the material evidences. Per Contra, the Ld. DR supported the order of the CIT(A).

6. Heard the rival submissions and perused the material on record. Prima-facie, the CIT(A) has passed the order considering the fact that there is no appearance in spite of providing adequate opportunity of hearing and the notices were issued. Therefore, the CIT(A) was of the opinion that the assessee is not interested in prosecuting the appeal and dismissed the appeal ex-parte confirming the action of the assessing officer. The Ld.CIT(A) has issued the notices of hearing referred at Page 6 Para 6 of the order, but there was no response and thus the Ld.CIT(A) came to a conclusion that the assessee is not interested and decided the appeal based on the information available on record. Whereas the assessee has raised grounds of appeal challenging the additions of the A.O and there could be various reasons for non appearance which cannot be overruled. Therefore, considering the principles of natural justice shall provide one more opportunity of hearing to the assessee to substantiate the case with evidences and information. Accordingly, we set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh

and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of the appeal and allow the grounds of appeal of the assessee for statistical purposes.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 03.05.2023.

Sd/-  
(PAVAN KUMAR GADALE)  
**JUDICIAL MEMBER**

Mumbai, Dated 03.05.2023

KRK, PS

**आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. The CIT (Judicial)
4. The PCIT
5. DR, ITAT, Mumbai
6. Guard File

ITA No. 352/Mum/2023  
Rajvinder kaur Balraj Singh Mahal, Mumbai.

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आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//()

1.

( Asst. Registrar)  
ITAT, Mumbai