

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH JABALPUR**

**BEFORE SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

ITA No.47/Jab/2022
Assessment Year: 2016-17

Abhishek Purohit, Kotwali Road, Behind Putrishala School, Sagar. PAN : ASBPP 4859M	Vs.	ITO, Ward (3), Sagar
(Appellant)		(Respondent)

Appellant by	Shri Rahul Bardia, CA
Respondent by	Shri Ravi Mehrotra, Sr. DR
Date of hearing	05/07/2023
Date of pronouncement	07/07/2023

ORDER

PER SUDHANSHU SRIVASTAVA, J.M.:

This appeal is preferred by the assessee against the order dated 22.03.2022 passed by the National Faceless Appeal Centre (NFAC), Delhi for Assessment Year (AY) 2016-17.

2. The brief facts of the case are that the assessee is the proprietor of M/s Purohit Telecom Center. His business during the year under consideration was of selling mobile recharge coupons for Reliance Telecom Ltd. and Videocon Telecom Ltd. The return of income for the captioned assessment year was filed declaring income from business at Rs.3,40,120/- and income from other sources at Rs.67,602/-. The case of the assessee was selected for limited scrutiny under the CASS guidelines for the reason "large cash deposit in Saving Bank Account(s) (AIR, Total turnover and other income in Part-A, P&L of ITR)." It was noticed that the assessee had made deposits aggregating to Rs.87,43,090/- in his

Bank account being maintained with ICICI Bank. The statutory notices under Sections 143(2) of the Income Tax Act, 1961 (hereinafter called 'the Act') and 142(1) of the Act were issued from time to time. However, there was non-compliance on the part of the assessee. The Assessing Officer also proceeded to impose penalty u/s. 271(1)(b) of the Act amounting to Rs.10,000/- for non compliance. Thereafter, in view of continued non-compliance from the side of the assessee, the Assessing Officer proceeded to complete the assessment u/s. 144 of the Act at Rs.87,43,946/-, after making addition of Rs.87,43,090/- on account of deposits in the Bank Account of the assessee and of Rs.856/- on account of interest credited by the Bank.

3. Aggrieved, the assessee preferred an appeal before the NFAC. However, here also, before the NFAC, although the assessee was afforded numerous opportunities, the assessee did not avail of the same and failed to comply with the notices issued by NFAC. In absence of any submissions or evidences furnished by the assessee, the NFAC dismissed the assessee's appeal.

4. Now, the assessee has approached this Tribunal, challenging the order of the NFAC by raising the following grounds of appeal:

"(1) The Ld CIT (A) erred in law and facts of the case in sustaining the order of the Ld AO, which is void ab initio, without jurisdiction, bad in law and facts of the case.

(2) The Ld. CIT(A) erred in law in sustaining the addition of Ld AO made for Rs 87,43,090 u/s 68 against cash deposit in the bank a/c. The assessee is into the business of distribution of recharge voucher of Videocon Company and enjoying income as a certain percentage of commission from the sale of recharge coupons The debits in the bank account against credit of cash deposit is not considered while passing exparte order.

(3) The Ld CIT (A) erred in law and facts in sustaining the addition of Rs 856/- on account of interest received in bank account as the same has already been declared in the return as income from the other sources.

(4) The Ld CIT (A) erred in law and facts of the initiation of penalty proceeding u/s 271(1)(C) of the Income Tax Act.

(5) The Id CIT (A) erred in law and facts of the case, in sustaining the order of AO in charging the interest u/s 234B and 234D of the Income Tax Act.”

5. At the outset, the Id. Authorized Representative submitted that he has submitted an application for acceptance of additional evidence and the same were part of the Paper Book at Pages 3 to 295. The Id. Authorized Representative submitted that the assessee's father had been hospitalized during the course of assessment proceedings as he was ailing from Cancer and, therefore, he was unable to comply with the various queries raised by the Assessing Officer. It was further submitted that the father of the assessee finally passed away on 29.11.2019. It was further submitted that this again was the reason that the assessee could not cooperate in the proceedings before the NFAC. He drew our attention to the Affidavit filed by the assessee in this regard and also copy of the Death Certificate as well as documents evidencing the fact that the assessee's father was undergoing medical treatment at Bansal Hospital, Bhopal. The Id. AR submitted that the non-compliance, on the part of the assessee before both the lower authorities, was entirely unintentional and beyond the control of the assessee, as the assessee was engaged in looking after the welfare of his ailing father. The Id. AR prayed that under such circumstances, the assessee be provided with an another opportunity to present his case.

6. Per contra, the Id. DR fairly conceded to the prayer of the Id.AR regarding providing another opportunity to the assessee.

7. Having heard both the parties and after having gone through the records, we find that the assessee had a reasonable cause for non-appearance before both the lower authorities and his bona fide in this regard, are beyond doubt. Accordingly, on the facts of this case, we deem it appropriate to restore the issue to the file of the Assessing Officer for framing the assessment afresh after giving a proper opportunity to the assessee to present his case.

8. In the final result, appeal of the assessee stands allowed for statistical purposes.

(Order pronounced in the open court on 07/07/2023)

Sd/-
(ANADEE NATH MISSHRA)
Accountant Member

Sd/-
(SUDHANSHU SRIVASTAVA)
Judicial Member

Dated: 07/07/2023
Aks

Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT
4. The CIT(A)
5. D.R., I.T.A.T., Jabalpur

Asstt. Registrar