

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

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

ITA No.91/Jab/2022
Assessment Year: 2017-18

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| Panna Lal Mukherjee, 1065/1, Shastri Nagar, Near Medical College, Jabalpur (MP) 482003 PAN : AFNPM 2253B | Vs. | Income Tax Officer 2(3), Jabalpur |
| (Appellant) | | (Respondent) |

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| Appellant by | Shri G.N. Purohit, Sr. Advocate And Shri Uma Parashar, Advocate |
| Respondent by | Shri Shiv Kumar, Sr. DR |
| Date of hearing | 10/07/2023 |
| Date of pronouncement | 21/07/2023 |

ORDER

PER SUDHANSHU SRIVASTAVA, J.M.:

This appeal is preferred by the assessee against the order dated 18.08.2022 passed by the National Faceless Appeal Centre (NFAC), Delhi for Assessment Year (AY) 2017-18.

2. The brief facts of the case are that the assessee had filed return of income declaring income at Rs.6,21,890/-. The case of the assessee was selected for limited scrutiny for the reason that the assessee had deposited substantial cash during the demonetization period as compared to the returned income. The assessee was required by the Assessing Officer to explain cash deposits of Rs.9,90,000/- made on 12.11.2016 during the demonetization. It was the assessee's response that Rs.4,40,000/- were received after the death of his mother on 13.06.2016 from his mother's Saving Account and Rs.5,50,000/- were received at the

time of marriage of the elder son which was solemnized on 06.12.2015. However, these explanations did not find any favour with the Assessing Officer and he proceeded to make an addition of Rs.10,10,000/- u/s.69A of the Income Tax Act, 1961 (hereinafter called the 'Act') and completed the assessment at Rs.13,70,460/-.

3. Aggrieved, the assessee approached the NFAC, challenging the addition. However, the assessee's appeal was dismissed by the NFAC.

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

"1. The learned CIT(A) NFAC has passed the order in gross violation of natural justice without considering the application under rule 46A dated 13/08/2022 and evidence submitted with the application. The CIT (A) has not considered the written submission dated 16/08/2022. The order is grossly unjustified should be quashed.

2. That, The learned CIT(A) NFAC is not justified in confirming addition of Rs. 1001000/- u/s 69A without taking into consideration the evidence and submissions of the appellant. The entire addition should be deleted.

3. The assessment order framed by Assessing Officer making addition of Rs. 1001000/- is unjustified in facts and law, the addition should be quashed in toto.

4. The applicant reserves his right to raise additional ground grounds of appeal those may arise at the time of hearing of this appeal."

5. At the outset, the Id. Authorized Representative drew our attention to the paper book filed by the assessee and submitted that the assessee had submitted a reply along with relevant documentary evidences for hearing fixed for 26.08.2022 before the NFAC. He drew our attention to

the said reply which has been placed in the paper book and submitted that the date fixed for compliance was 26.08.2022, whereas, the NFAC had passed the impugned order on 18.08.2022 itself. It was submitted that, thus, the impugned order has been passed without considering the assessee's reply which was to be filed by 26.08.2022 and, thus, there was a gross miscarriage of justice in this regard as the assessee had been deprived of the opportunity to explain his case.

6. Per contra, the Id. Sr. D.R. supported the order of the authorities below.

7. We have heard the rival submissions and have also perused the material on record. We find that the assessee's contention that the impugned order has been passed without considering the assessee's submission dated 26.08.2022 is indeed correct in as much as the impugned order was passed on 18.08.2022 whereas the date fixed for compliance was 26.08.2022. In such a case, we are of the considered opinion that the assessee deserves an opportunity to explain his case before the proper forum. Accordingly, we restore the file to the Office of the Assessing Officer with a direction to adjudicate the issue afresh, after giving proper opportunity to the assessee to present his case.

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

(Order pronounced in the open court on 21/07/2023
In accordance with Rule 34(4) of the I.T.A.T. Rules.)

Sd/-
(ANADEE NATH MISSHRA)
Accountant Member

Sd/-
(SUDHANSHU SRIVASTAVA)
Judicial Member

Dated: 21/07/2023
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