

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "E": NEW DELHI**

**BEFORE**

**SHRI G.S. PANNU, HON'BLE PRESIDENT  
AND  
SHRI AMIT SHUKLA, JUDICIAL MEMBER**

ITA No. 1825/Del/2022  
Asstt. Year: 2017-18

Micro International, 125, Ground Floor, Khasra No. 760, Village Siraspur, New Delhi 110 042 (Appellant)	Vs.	ACIT, Central Circle-27 New Delhi.  (Respondent)
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Assessee by:	None
Department by:	Dr. Maninder Kaur, Sr. Dr
Date of Hearing	13.06.2023
Date of pronouncement	26.07.2023

**ORDER**

**PER AMIT SHUKLA, JM**

The aforesaid appeal has been filed by the assessee against the order dated 22.03.2022 passed by Ld. Commissioner of Income Tax (Appeals)-29, New Delhi for the quantum of assessment passed under section 144 of the Income Tax Act, 1961 for the assessment year 2017-18.

2. In the grounds of appeal, the assessee has raised following grounds:-

- “1. That the order passed by CIT (A)-29, New Delhi is contrary to facts and bad in law.*
- 2. That on the facts and circumstances of the case and in law the CIT(A) was not justified in upholding the assessment order by passing an ex-parte appellate order without providing adequate and reasonable opportunity of being heard to the appellant.*

*2.1 That the ex-parte order passed by CIT(A) is not in accordance with the law since the CIT(A) has failed to adjudicate the appeal on merits and also failed to give specific findings on the grounds raised in appeal.*

*3. That on the facts and circumstances of the case and in law the CIT (A) erred in upholding the addition of Rs.61,52,610/- made in the assessment order on account of cash deposited in the bank account.*

*3.1 That CIT (A) failed to consider that the cash deposited in the bank account was represented by cash balance as per books of accounts and that the same had emanated out of cash sales which was already reckoned as income in the P&L account of the appellant for A.Y. 2017-18.*

*3.2 That on the facts and circumstances of the case and in law the CIT (A) was not justified in confirming addition of Rs.61,52,610/- made in the assessment order by treating the credits in the Bank Account as unexplained credit u/s 68 of the Income Tax Act.*

*3.3 That the action of the CIT (A) in upholding the addition amounts to double addition as the cash deposited which is emanated out of sales was already offered as income in the P&L account of the appellant.*

*4. That on the facts and circumstances of the case and in law the CIT (A) was not justified in upholding an estimated addition of Rs.5,98,08,447/- by treating 15% of the total turnover of Rs.39,87,22,981/- as net profit of the appellant.*

*4.1 That the CIT (A) failed to give any independent finding with regard to the above addition and the appellate order merely upholds the addition made in the assessment order.*

*4.2 That the CIT (A) failed to consider that in the absence of rejection of books of accounts by the Assessing Officer by finding specific defects in the books of accounts, no estimated net profit can be made.”*

3. None appeared on behalf of the assessee despite various notices sent on the address mentioned in the Form 36. Therefore, the appeal is being decided on the basis of material available on record. As per the assessment order, the assessee has filed return of income on 30.3.2018 at Rs. 4,080/-. The assessee's case was selected for scrutiny on the ground that there was abnormal increase in cash deposits during demonetization period as compared to earlier period. The assessee is carrying on business of chemicals other than petro chemicals, plastic waste and dry fruits etc. on wholesale basis under the name and firm of M/s. Micro International

Partnership Firm. Ld. Assessing Officer on the perusal of SFT, noted that assessee has maintained two bank accounts, i.e., Tamilnadu Mercantile Bank and Axis Bank and in both accounts assessee has made cash deposit from 09.11.2016 to 30.12.2019 for sums aggregating to Rs. 61,52,,610/-. According to the Assessing Officer, assessee has only filed part submission on ITAT portal and has failed to produce to any explanation or documentary evidences in respect of huge cash deposits in various bank accounts. Despite several opportunities provided to the assessee, assessee has failed to comply with and accordingly Assessing Officer has no option but to pass best judgment assessment under section 144 after issuing final show cause notice. Finally he has made the addition after observing as under:-

*“9. In the cases where assessee deposited huge Cash in bank accounts during Demonetisation period (9th November, 2016 to 30th December, 2016), but the sources were neither explained nor such money was offered for taxation, the onus is on the assessee to prove that the Cash deposits made did not bear the character of income. In this case, the assessee had failed to prove the source of cash deposit with supporting documents. It is pertinent to mention here that the assessee failed to provide true and correct income in his ITR. The assessee also failed to provide any details with respect to the source of such huge cash deposits in his bank a/c. It may also be noted that during the relevant year the assessee has filed returned income of Rs. 4,080/-. Such low returned income is nowhere commensurate with such high cash deposits in the bank accounts. In view of the discussion, I hold that the amount of Deposits made in the bank accounts, including cash deposited during Demonetisation period, represents the income of the assessee from undisclosed sources. The assessee has under reported its true income which otherwise is taxable.*

*10. The assessee has made cash deposits amounting to Rs 61,52,610/- (includes cash credits of Rs. 8,95,000/- during period other than demonetization period) in the F Y 2016-17 relevant to A Y 2017-18 which remained unexplained. The assessee failed to give any explanation about the nature and source of cash deposits, hence the value of Credit entries amounting to Rs. 61.52.610/- appearing in the bank accounts of the assessee is deemed as unexplained cash credits u/s 68 of the Income Tax Act, 1961 and added to the Total Income of the assessee. The Total Income assessed is taxed u/s 115 BBE of the Act at the rate of 60%.”*

4. Apart from that, the Ld. Assessing Officer has also made addition on account of estimated gross profit @ 15% and the revenue from operation at Rs. 39,87,22,981/- and made addition of Rs. 5,98,08,447/-.

4. Ld. CIT (A) noted that in as much as five notices were sent to the assessee and no submissions have been filed, accordingly he passed an ex parte order confirming the order of the Assessing Officer.

5. Before us also as noted above assessee has not complied with notices of hearing. After considering the relevant finding in the impugned order and the submissions made by the Ld. DR, it is seen that the assessee has made cash deposits amounting to Rs. 61,52,610/- which is mostly during the demonetisation period except for cash deposits of Rs. 8,95,000/- which was deposited other than demonetisation period. At no point of time assessee filed any information and the source of deposits in the bank account nor has it filed any books of account or details in respect of transaction during the year such as cash book, details of purchases and sales during the year. Despite various opportunities given nothing has been brought on record to prove the source of cash deposits especially when the return income is merely of Rs. 4,000/-. Accordingly, the addition made by the Assessing Officer at Rs. 61,52,610/- is confirmed.

6. In so far as estimation of 15% of the revenue from operations, we find that the Assessing Officer even while making best judgment assessment has not been able to point out what has been the net profit shown by the assessee in the earlier years or subsequent years or in the line of the assessee's business, what is the profit rate. Such an arbitrary estimation of 15% cannot be sustained. However, if the assessee had not provided any details, therefore it is deemed fit that this issue should be restored back to the file of the Assessing Officer and assessee is directed to comply with the notices and substantiate the entries in the profit and loss account and if not AO can bring comparables to see the reasonable profit in assessee's trade. The Assessing Officer shall give due and effective opportunity of hearing to the assessee and decide in accordance with law.

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

**Order pronounced in the open court on 26<sup>th</sup> July, 2023.**

**sd/-  
(G.S. PANNU)  
PRESIDENT**

Dated: 26/07/2023

**sd/-  
(AMIT SHUKLA)  
JUDICIAL MEMBER**

***Veena***

Copy forwarded to -

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	