

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "SMC", MUMBAI**

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.1359/M/2023  
Assessment Year: 2013-14**

Shri Kamlesh Vasant Nerkar, Sriram Bhuvan D.G. Salvi Chawl, Ganesh Wadi, Near Canara Bank, Kolsewadi, Kalyan, Maharashtra-421306 <b>PAN: ABMPN9912F</b>	Vs.	Commissioner of Income Tax (Appeals), Income Tax Department, National Faceless Appeal Centre (NFAC), Delhi
(Appellant)		(Respondent)

**Present for:**

Assessee by : Ms. Pooja Jain, A.R. &  
Shri Hemant Dargode, A.R.

Revenue by : Shri B. Laxmi Kanth, D.R.

Date of Hearing : 10 . 07 . 2023

Date of Pronouncement : 28 . 07 . 2023

**O R D E R**

**Per : Kuldip Singh, Judicial Member:**

The assessee by filing the present appeal, sought to set aside the impugned order dated 28.02.2023 passed by the National Faceless Appeal Centre(NFAC) [Commissioner of Income Tax (Appeals), Delhi] (hereinafter referred to as CIT(A)] qua the assessment year 2013-14 on the grounds inter-alia that :-

*“1. The Appellant failed to file his Return of Income for AY 2013-14 and failed to disclose the transaction of purchase of immovable property.*

*2. The Appellant had entered into a transaction of purchase of immovable property worth Rs 19,03,395/- in FY 2012-13.*

*3. The Appellant neither responded to any notices/letters which were issued from time to time and accordingly the assessment was completed u/s 144 Le ex-parte.*

*4. Ld AO erred in adding Rs 1,85,000 which is treated as unexplained money/cash deposit made into bank account.*

*5. The Appellant failed to provide any explanation & justification in support of the ground of appeal mentioned above at the time of filling an Appeal with the Commission of Income Tax (Appeals)*

*The Appellant craves leave to add, amend, supplement, alter and /or delete any of the above Grounds of Appeal.”*

2. Briefly stated facts necessary for consideration and adjudication of the issues at hand are : assessee is working as a teacher having income below taxable income and was not required to file his return of income. During the year under consideration the Assessing Officer (AO) noticed in the reopening proceedings that the assessee has purchased immovable property for a consideration of Rs.19,03,395/-, out of which he has paid cash amount of Rs.1,85,000/-. On failure of the assessee to explain the same the AO proceeded to make the additions of Rs.1,85,000/- to the unexplained money/cash deposit in the bank account and thereby framed the assessment under section 147 read with section 144 of the Income Tax Act, 1961 (for short ‘the Act’).

3. The assessee carried the matter before the Ld. CIT(A) by way of filing appeal who has confirmed the addition by dismissing the appeal due to non prosecution. Feeling aggrieved with the

impugned order passed by the Ld. CIT(A) the assessee has come up before the Tribunal by way of filing present appeal.

4. I have heard the Ld. Authorised Representatives of the parties to the appeal, perused the orders passed by the Ld. Lower Revenue Authorities and documents available on record in the light of the facts and circumstances of the case and law applicable thereto.

5. Bare perusal of the impugned order passed by the Ld. CIT(A) goes to prove that he has dismissed the appeal filed by the assessee due to non prosecution without going into the merits of the case. However, the Ld. A.R. for the assessee challenging the impugned order contended that the amount of Rs.1,85,000/- added by the AO as unexplained income/cash was his saving from the salary as the assessee is working as a teacher and brought on record form No.16.

6. The assessee has also brought on record his bank statement qua the account maintained with Thane District Central Bank available at page 8 to 10, bank statement of Canara Bank of his wife available at page 11 to 12, bank statement of co-operative bank of his file available at page 13 to 15, bill for selling gold by his wife available at page 16 to 27, bank statement of his mother maintained with Canara Bank available at page 29 to 35 which shows that the assessee, his wife and his mother were having ample saving to cover the amount of Rs.1,85,000/- deposited in cash.

7. Moreover from perusal of form No.16 it is proved that the assessee is a permanent employee with Zilla Parishad School, Thane and his annual salary is Rs.4,48,143/- out of which one can

easily expect the saving of 40% as he was not income tax payer. Moreover, the assessee has brought on record the fact that he has taken Rs.75,000/- from his mother who was a pensioner and her bank statement available at page 29 to 35 is showing the sufficient balance to lend Rs.75,000/- to the assessee. Furthermore, saving bank account of the assessee was also maintaining balance of Rs.2.18 lakhs.

8. All these facts go to prove that the assessee was having funds out of his own savings, savings of his wife and mother out of which cash amount was withdrawn and deposited the same which stood duly explained. The Ld. CIT(A) has decided the issue in a hurried manner without giving adequate opportunity of being heard to the assessee. In case the issue is remitted back to the Ld. CIT(A) it would further push the assessee, who is a teacher, into protracted litigation, more particularly when amount of addition of Rs.1,85,000/- stood duly explained.

9. In view of what has been discussed above the impugned order passed by the Ld. CIT(A) is set aside and the AO is directed to treat the amount of Rs.1,85,000/- as explained/income of the assessee and addition made is ordered to be deleted.

10. Resultantly, the appeal filed by the assessee is allowed.

**Order pronounced in the open court on 28.07.2023.**

**Sd/-  
(KULDIP SINGH)  
JUDICIAL MEMBER**

Mumbai, Dated: 28.07.2023.

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The CIT (A) Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.