

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

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)**  
**AND**  
**SHRI PAVAN KUMAR GADALE (JUDICIAL MEMBER)**

**ITA No. 84/JAB/2022**  
**Assessment Year: 2012-13**

Sarika Gandhi,  
Ward-8 Banda Jakir Husain  
Ward Banda Belai, Madhya  
Pradesh-470335.

**PAN No. AMPPG 5507 M**  
**Appellant**

Pr. CIT Jabalpur,  
Aayakar Bhawan Napier Town  
Jabalpur M.P. 470335.

**Vs.**

**Respondent**

**Assessee by** : Mr. G.N. Purohit, Sr. Advocate &  
Mr. Abhijeet Shrivastava, Advocate  
**Revenue by** : Mr. Saad Kidwai, CIT-DR

Date of Hearing : 21/09/2023  
Date of pronouncement : 20/10/2023

**ORDER**

**PER OM PRAKASH KANT, AM**

This appeal by the assessee is directed against order dated 02.06.2022 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)’] for assessment year 2012-13, raising following grounds:

1. *The learned Assessing Office was not justified in deciding the appeal exparte for non attendance without appreciating that the appellant was prevented from sufficient cause in not attending on the date of hearing.*
2. *The CIT (Appeal was also not justified in deciding the appeal without examining the issues on merit and documents submitted.*



3. *The CIT (Appeal) was also not justified in deciding the appeal without appreciating that proceeding initiated u/s 148 was illegal and bad in law.*
4. *The CIT (Appeal) was also not justified in deciding the appeal without appreciating that proceeding initiated u/s 148 was illegal and bad in law.*
5. *That the CIT(Appeals) erred on the facts and in law in not appreciating that the assessing officer passed the assessment order in undue haste and in gross violation of principles of natural justice*
6. *That the CIT(Appeals) erred on the facts and in law in not appreciating that the Document submitted before him only on the ground that it is not submitted as additional evidence*
7. *6. The CIT (Appeal) was also not justified in deciding the appeal without appreciating that addition AO making addition of Rs. 14,65,000/- u/s 69A of the I.T. Act, 1961 was made only on account of cash deposit in the bank without properly appreciating the facts of the case.*
8. *7. That the Department had imposed addition on mere cash deposit of Rs. 14,65,000/- during the F.Y. 2011-12 which were against the basic principles of natural justice. and Taxation*

2. We have heard rival submission of the parties and perused the relevant material on record. We find that the assessee is a self-employed woman and during relevant period was engaged in the small trading business of garments. The assessee deposited cash of Rs.14,65,000/- in her bank account. It was stated that same was deposited for the purpose of buying a property. Before the Ld. CIT(A), the assessee filed evidence to justify the deposit of the cash including bank statement, profit and loss account, balance sheet, purchase register etc. The Ld. CIT(A) rejected the appeal for the reason for no application under Rule 46A of the Income-tax Rules, 1962 (in short 'the Rules') for admitting additional evidence was filed. The relevant observation of the Ld. CIT(A) are reproduced as under:

*"4. Decision: I have carefully considered the facts on record, the assessment order and written submissions of the appellant made by*



*the appellant during appellate proceedings. The appeal involves sole issue of addition on a/c of unexplained cash/money deposit of Rs. 14,65,000/- in bank account.*

*It is a matter of fact that the Income Tax Department had received an information about cash deposit of Rs. 14,65,000/- in a saving bank account by the appellant and the appellant did not furnish any income tax return in the past.*

*Accordingly, notice u/s 148 of the Act was issued on 23.03.2019. Thereafter, a notice u/s 142(1) of the Act was issued on 19.11.2019, which was refused by the appellant to receive the same. Again a final show cause notice was issued on 26.11.2019 but the appellant did not file any reply. These facts clearly show that the appellant was provided sufficient opportunity of being heard before passing ex-parte order and the appellant failed to rebut the facts mentioned in the assessment order during the appellate proceedings.*

*Now, the appellant furnished cash book, bank statement, profit & loss A/c, Balance Sheet, purchase register, etc prepared in tally software during the instant appellate proceedings in support of the claim that cash was deposited in the bank out of opening cash-in-hand without making any effort to justify the opening cash-in-hand as she had never filed any return of income. Further, these documents are fresh evidences and the appellant has not made any request for admission of these documents / evidences u/r 46A of the IT Rule. In view of the above facts & circumstances, the ground of the appellant is dismissed.”*

3. Before us, the Ld. Counsel of the assessee submitted that the assessee is willing to file application under Rule 46A of the Rules, before the Ld. CIT(A) for admission of the additional evidence. In our opinion, the additional evidence goes to the root of the matter and therefore the admission of the same is crucial for adjudication of the issue in dispute. Therefore, we feel it appropriate to restore this issue back to the Ld. CIT(A) with the direction to consider the application of the assessee under Rule 46A of the Rules for admission of the additional evidence if so filed by the assessee. The grounds of appeal of the assessee are accordingly allowed for statistical purpose.



4. In the result, the appeal of the assessee is allowed for statistical purposes.

**Order pronounced under Rule 34(4) of the ITAT Rules, 1963 by way of result of appeal displayed on the Notice Board at ITAT Office, Jabalpur on 20/10/2023.**

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

**Sd/-  
(OM PRAKASH KANT)  
ACCOUNTANT MEMBER**

Mumbai;

Dated: 20/10/2023

Rahul Sharma, Sr. P.S.

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Assistant Registrar)  
**ITAT, Mumbai**