

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. 56/JAB/2023
Assessment Year: 2017-18

Pappu Yadav, Village
Pahadi, District Tikamgarh
Madhya Pradesh- 472001.

PAN No. AIWPY 8755 E
Appellant

ITO Ward Tikamgarh,
Madhya Pradesh-472001.

Vs.

Respondent

Assessee by : Mr. Abhijeet Shrivastava, Advocate
Revenue by : Mr. Rajesh Kumar Gupta, Sr. 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 30.03.2023 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)'] for assessment year 2017-18, raising following grounds:

GROUND OF APPEAL.

- *The learned Assessing Office and CIT (Appeal) was not justified was not justified in making assessment exparty is against the law and facts of the case*
- *The learned Assessing Office and CIT (Appeal) was not justified in making all the amount deposited in bank as an Income of the assessee which is wrong and very excessive.*



• The CIT (Appeal) was also not justified in deciding the appeal without examining the issues

• The Assessing officer and CIT (APPEAL) is not justified in making assessment: under the head income from other sources Considering at Rs 3023414 / - because the total deposit is in saving bank account is out of loan taken from bank, against through warehouse where the wheat, grain etc. are kept on pledge. The Appellant is quite uneducated and unable to read even Hindi, therefore he could not understand the meaning of any notice. Even he does not know what income tax no reply is therefore could be given and ex party assessment made The appellant did not received any assessment order or notice, he came to know when the AO attached the bank account and drawn an amount of Rs. 17000, there he connected the assessing officer and received the order. Under the fact and circumstances of the case the assessment made be cancelled and income taken at Rs.3023414 be deleted and appeal allowed.

2. We have heard rival submission of the parties on the issue in dispute and perused the relevant material on record. In the case of the assessee, an addition for cash deposit in bank account during the demonetization period amounting to Rs.18,64,800/- was made by the Assessing Officer.

2.1 We find that during the course of the assessment proceedings, the Assessing Officer issued various notices u/s 142(1) of the Income-tax Act, 1961 (in short 'the Act'). However not a single notice was complied by the assessee and therefore, the assessment order was passed u/s 144 of the Act. On further appeal by the assessee, the Ld. CIT(A) also issued various notices, however same were not complied. The relevant finding of the Ld. CIT(A) is reproduced as under:

"4. Findings:

In this case, Notice was issued on 15.12.2020 to the appellant to furnish written submissions and documents on or before 30.12.2020.



It was specifically stated in the said notice that if no submissions/ information/ documents were received within the stipulated time period, it would be presumed that the appellant had nothing to say in the matter and the department may proceed ahead based on material available on record. In view of the fact that no written submissions/ information/ documents were received from the appellant, nor any adjournment sought, another notice was issued on 23.12.2020 to the appellant to furnish written submissions, information and documents on or before 07.01.2021. It was specifically stated in the said notice that if no submissions/ information/ documents were received within the stipulated time period, it would be presumed that the appellant had nothing further to say in the matter and the appeal would be decided on merits on the basis of material available on record. No written submissions/ information/ documents were received, nor any adjournment sought. Accordingly, yet another notice was issued on 03.11.2021 to the appellant to furnish written submissions, information and documents on or before 18.11.2021 and another notice was issued on 13.12.2021 to the appellant to furnish written submissions, information and documents on or before 28.12.2021 another notice was issued on 08.08.2022 to the appellant to furnish written submissions, information and documents on or before 23.08.2022 and another notice was issued on 02.03.2023 to the appellant to furnish written submissions, information and documents on or before 09.03.2023. In view of the fact that no written submissions/ information/ documents have been received till date from the appellant nor any adjournment sought, appeal is being decided on the basis of material available on record.

Despite repeated notices as delineated above, the appellant has not seen it fit to file any submissions, information or documents during appeal proceedings. The only material on record in this case is Form 35 filed by appellant and copy of assessment order dated 27.12.2019 filed by the appellant along with Form 35. The material on record has been carefully perused.

There is no material on record to warrant interference in the order of the AO.

In view of the fact that there is no material on record to warrant interference in the order of the AO, the grounds of appeal are hereby dismissed.”

3. Before us, the Ld. Counsel of the assessee sought restoration of the appeal to the Assessing Officer for deciding afresh for the reason that assessee is a farmer and could not respond to the various notices issued by the Assessing Officer on Income-tax portal. But, we find that the appeal before the ld CIT(A) was filed



electronically by the assessee wherein e-mail ID was provided by the assessee , still various notices issued by the Ld. CIT(A) have also not been responded by the assessee. In view of this non-compliance and negligent behavior on the part of the assessee, we feel it appropriate to restore the matter back to the file of the Ld. CIT(A) for deciding afresh , subject to imposition of a cost of Rs.2,000/- on the assessee, which shall be deposited in the Prime Minister Relief Fund within a period of one month from the receipt of this order by the assessee. The Ld. CIT(A) shall insure that said cost is paid by the assessee. It is needless to mention that the assessee shall be afforded adequate opportunity of being heard and if the assessee chooses to file any additional evidences, then the ld CI(A) may call for remand report from the Assessing Officer and pass the order in accordance with law.

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