

**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC-'B' BENCH : BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
MS. MADHUMITA ROY, JUDICIAL MEMBER**

ITA No. 854/Bang/2023
Assessment Year : 2017-18

Shri Ganapathi Pura Thippaiah, 1 Talageri, Hosur Mathikai Sampekatte Hosanagara, Shivamogga – 577 425. Karnataka PAN: AYJPG6460D	Vs.	The Income Tax Officer, Ward 4, Shimoga.
APPELLANT		RESPONDENT

Assessee by	:	Shri Siddesh .N. Gaddi, CA
Revenue by	:	Shri Ganesh R Ghale, Standing Counsel

Date of Hearing	:	04-12-2023
Date of Pronouncement	:	04-12-2023

ORDER

PER MADHUMITA ROY, JUDICIAL MEMBER

The instant appeal filed by the appellant is directed against the order dated 06.09.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi arising out of the order dated 20.11.2019 passed by the ITO, Ward No. 4, Shimoga u/s. 143(3) of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for A.Y. 2017-18 whereby and whereunder the

addition made by the Ld.AO to the tune of Rs.31,37,400/- has been confirmed.

2. We have heard the rival submissions made by the respective parties. We have also perused the relevant materials available on record.
3. The order impugned is an ex-parte one passed by the First Appellate Authority. It is the case of the revenue that the notices u/s. 250 were generated and issued on 24.01.2021, 11.07.2023, 27.07.2023, 11.08.2023 and 29.08.2023 to the appellant by the office of the Ld.CIT(A) with the ultimate direction to file the written submissions by 05.09.2023 but without any result. Hence the Ld.CIT(A) proceeded to deal with the matter ex-parte. On the other hand, it is the case of the appellant that the Ld.CIT(A) has not considered the application for adjournment sought in the matter and wrongly finalized the issue ex-parte.
 - 3.1 The further case of the revenue is this that before the Assessing Officer, the assessee failed to substantiate the cash deposits made with the supporting evidences regarding the sources for cash deposit neither filed additional evidence by way of an application under Rule 46A before the First Appellate Authority and thus the case of the assessee was not found to be justified. In that view of the matter, the Ld.CIT(A) did not find any reason to interfere with the order passed by the Ld.AO in making additions.

3.2 Thus it appears on record that the assessee's case has been decided admittedly ex-parte by the Ld.CIT(A), knowing fully well that sufficient evidences in support of the case made out by the assessee were not been able to be filed by the assessee. Thus under this particular facts and circumstances of the case, we in order to prevent the miscarriage of justice, find it fit and proper to give a further opportunity of being heard to the assessee to ventilate its grievances by filing appropriate additional evidence before the authorities below for adjudication of the issue appropriately. Thus considering the entire aspect of the matter, we set aside the issue to the file of the Ld.AO to adjudicate the issue afresh by passing a reasoned order upon giving an opportunity of being heard to the assessee and upon considering the evidences on record or any other evidence which the assessee may choose to file at the time of hearing of the matter.

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

Order pronounced in the open court on 04th December, 2023.

Sd/-
(CHANDRA POOJARI)
Accountant Member

Sd/-
(MADHUMITA ROY)
Judicial Member

Bangalore,
Dated, the 04th December, 2023.
/MS /

Copy to:

1. Appellant
3. CIT
5. Guard file

2. Respondent
4. DR, ITAT, Bangalore

By order

Assistant Registrar,
ITAT, Bangalore