

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

**SHRI B.R. BASKARAN, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 2459/MUM/2023
(Assessment Year: 2017-18)**

Sheetal Suhas Ghugare,
507, Atlantic Commercial Tower,
R B Mehta Marg, Ghatkopar (East),
Mumbai - 400077
[PAN: ANKPG6594Q]

..... **Appellant**

**Income Tax Officer,
27(3)(3), Mumbai,**
Vashi Railway Station,
Navi Mumbai - 400703

Vs

..... **Respondent**

Appearance

For the Appellant/Assessee : None
For the Respondent/Department : Smt. Kanupriya Damor

Date

Conclusion of hearing : 28.11.2023
Pronouncement of order : 30.11.2023

ORDER

Per Rahul Chaudhary, Judicial Member:

1. By way of the present appeal the Appellant has challenged the order, dated 16/05/2023, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'the CIT(A)'] for the Assessment Year 2017-18, whereby the Ld. CIT(A) had dismissed the appeal of the Assessee against the Assessment Order, dated 03/12/2019, passed under Section 144 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').
2. The Appellant has raised following grounds of appeal:

1. *"There was a reasonable cause that Rs prevented the appellant from furnishing comprehensive documents and explain various credit entries totalling to Rs.81,12,729 in her bank accounts before the learned AO and the learned CIT(A) during the course of assessment / first appeal proceedings.*

Your appellant respectfully submits that the additional evidences may please be admitted for adjudication of present appeal on merit.

2. *The addition of Rs.81,12,729 made u/s 69A is unjustified.*

Your appellant respectfully submits that, on facts and in law, the aforesaid addition of Rs. 81,12,729 deserves to be deleted

3. *Despite the fact that the learned CIT(A) has not rejected your appellant's request for admission of additional evidence u/r 46A, the additional evidences furnished during the course of first appeal proceedings were not referred to the learned AO for his comments*

Your appellant respectfully submits that the learned CIT(A) should have referred the additional evidence to the learned AO when there was no specific rejection of appellant's request for admission of additional evidence."

3. The relevant facts in brief are that the Appellant, an individual did not file return of income for the Assessment Year 2017-18. On the basis of the Annual Information Return (AIR), notice under Section 142(1) of the Act was issued to the Appellant for filing the return of income. Since the Appellant did not file return of income, the Assessing Officer gathered information under Section 133(6) of the Act and framed based judgment assessment on the Appellant under Section 144 of the Act on 03/12/2019 making an addition of INR 81,12,729/- under Section 69A of the Act being cash deposits amounting to INR 13,37,000/- and credit entries of INR 67,75,729/- reflected in the bank account statements of the Appellant for the financial year 2016-17 relevant to the Assessment Year 2017-18.

Being aggrieved, the Appellant preferred appeal before CIT(A) and filed additional evidence. However, the CIT(A) dismissed the appeal of the Appellant vide order, dated 16/05/2023.

4. Being aggrieved by the above order dismissing appeal passed by the CIT(A), the Appellant is now in appeal before the Tribunal.
5. When the appeal was taken up for hearing, none was present for the Appellant. However, on perusal of grounds raised by the Appellant we proceeded to adjudicate the appeal after hearing the Ld. Departmental Representative.
6. We have heard the Ld. Departmental Representative and perused the material on record. One of the grounds raised by the Appellant in the present appeal is that the CIT(A) has decided the appeal without taking into consideration the additional evidence furnished by the Appellant during the course of the appellate proceedings. On perusal of paragraph 3 of order impugned, we find that the CIT(A) has recorded that the Appellant had filed written submissions and furnished relevant information and document through the e-proceedings facility in the e-filing account on 20/05/2022. Further, while adjudicating the appeal, the CIT(A) has recorded as under:

"5.5 Adjudication:

From these details filed the appellant seems to have discharged her onus of proving the credits and leaving all these details to be stitched into a format so as to give a clean chit to the appellant. The appellant had to prove that her husband is assessed to tax and had filed the returns wherein these incomes are taken note of. Merely filing documents for the authorities to pick up the threads would not amount to prosecuting the appeal in the right earnest.

For these reasons, the appellant had failed to make out a case justifying that either she or her husband or both had independent

sources of income to account for the credits brought to tax by the AO as unexplained 69A of the Act.”

7. On perusal of above, it becomes clear that the Ld. CIT(A) has not taken into consideration the additional evidence filed by the Appellant. The order impugned does not contain any discussion on the application for additional evidence or the remand report called from the Assessing Officer in terms of Rules 46A of the Income Tax Rules, 1962. Though the details of the additional evidences and the explanation furnished by the Appellant regarding the nature and source of cash/credit entry in the bank account has been referred to in paragraph 5.2 of the order impugned. No reference to the same can be found in paragraph 5.5 of the order passed by CIT(A) reproduced in paragraph 6 above. To the contrary, the CIT(A) has declined to consider the additional evidence observing that the Appellant had failed to prosecute the appeal in the right earnest as the Appellant has merely filed documents leaving the CIT(A) to pick up the threads. In view of the aforesaid, finding merit in Ground No. 3 raised by the Appellant, we set aside the order dated 16/05/2023, passed by the CIT(A). Since the assessment was framed under Section 144 of the Act we deem it appropriate to restore the issue back to the file of Assessing Officer for adjudication afresh after granting the Appellant reasonable opportunity of being heard. The Appellant has directed to cooperate in the assessment proceedings and not seek unnecessary adjournment. It is clarified that the Appellant would be at liberty to file all the relevant submissions/documents/details on which the Appellant wishes to place reliance before the Assessing Officer on receiving notice of hearing. In terms of the above, Ground No. 3 raised by the Appellant is allowed for statistical purposes whereas all the other grounds raised by the Appellant are dismissed as being infructuous.

8. In result, the present appeal preferred by the Assessee is allowed for statistical purposes.

Order pronounced on 30.11.2023.

Sd/-
(B.R. Baskaran)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 30.11.2023
Alindra, PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT,
Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai