

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “SMC” BENCH: NEW DELHI**

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

**ITA No.2557/Del/2023
[Assessment Year : 2012-13]**

Promila, W/o-Sh Jai Pal Singh, H.No.1844, Sector-2-3 Part, Rohtak, Haryana-124001. PAN-CDCPP2747N	vs	ITO, Ward-3, Rohtak.
APPELLANT		RESPONDENT
Appellant by	Ms. Nitikaa Guptha, Adv.	
Respondent by	Shri Om Parkash, Sr.DR	
Date of Hearing	18.12.2023	
Date of Pronouncement	20.12.2023	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee is directed against the order passed by Ld.CIT(A), National Faceless Appeal Centre (“NFAC”), Delhi dated 23.08.2023 for the assessment year 2012-13.

2. The assessee has raised following grounds of appeal:-

1. *“That the order of the Ld. CIT(A) is against law and facts.*
2. *That the Ld. CIT (A) erred in dismissing the appeal of the appellant by passing an ex-parte order for non appearance, although no proper opportunity of hearing was given by the Ld. CIT(A) to the appellant.*
3. *That the Ld. CIT(A) erred in passing in ex-parte order against the appellant, although Ld. CIT (A) has no power to pass an ex-parte order and is bound to decide the appeal on merits.*
4. *That the Ld. CIT (A) erred in confirming the addition of Rs. 18,00,000/- made by the Ld. AO in the Assessment Order on account of cash deposits by the appellant in her bank account.*

5. *That the appellant craves leave to add, alter, modify, amend or withdraw any of the ground of appeal at the time of hearing.”*
3. Apropos to grounds of appeal, Ld. Counsel for the assessee submitted that the impugned order passed *ex-parte* to the assessee. The assessee was not given adequate opportunity of hearing to represent her case. Ld. Counsel for the assessee further submitted that the notices issued by Ld.CIT(A) were not received by the assessee.
4. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, dismissed the appeal of the assessee.
5. Aggrieved against the order of Ld.CIT(A), the assessee preferred appeal before this Tribunal.
6. On the other hand, Ld. Sr. DR opposed these submissions and supported the orders of the authorities below.
7. I have heard Ld. Authorized Representatives of the parties and perused the material available on record. Ld.CIT(A) has decided the issue by observing as under:-
- 5.1. *“The AO was in possession of an information that the assessee had deposited an amount of Rs. 18,00,000/- in cash in her account with the Dena Bank during the year under consideration relevant to A.Y.2012-13 but the assessee had not filed her ITR. Therefore, the AO had reason to believe that income chargeable to tax had escaped assessment within the meaning of section 147 of the Act. Accordingly, he issued a notice u/s148 of the Act on 28.03.2019 which was duly served on the assessee. The assessee did not respond to the said*

notice u/s148 of the Act. Thereafter, the AO issued statutory notices which were also not responded to by the assessee. Under the circumstances, the AO issued a show cause notice proposing to pass an order u/s144/147 of the Act taxing the cash deposit of Rs. 18,00,000/- in bank account with the Dena Bank. There was again no compliance from the assessee. Therefore, the AO finalized the assessment u/s.144/147 of the Act vide an order dated: 16.12.2019 for A.Y.2012-13 at the assessed income of Rs. 18,00,000/-.

5.2 The appellant has not filed any written submissions during the course of assessment proceedings or during the appellate proceedings. The AO had initiated the proceedings on the basis of an information that the assessee had deposited an amount of Rs.18,00,000/- in cash in her account with the Dena Bank during the year under consideration relevant to A.Y.2012-13 but the assessee had not filed his ITR. Therefore, the AO had reason to believe that income chargeable to tax had escaped assessment within the meaning of section 147 of the Act. Accordingly, he issued a notice u/s148 of the Act on 28.03.2019 which was duly served on the assessee. The assessee did not respond to the said notice u/s148 of the Act. Thereafter, the AO issued statutory notices which were also not responded to by the assessee. Under the circumstances, the AO issued a show cause notice proposing to pass an order u/s144/147 of the Act taxing the cash deposit of Rs. 18,00,000/- in bank account with the Dena Bank. There was again no compliance from the assessee. Therefore, the AO finalized the assessment u/s.144/147 of the Act vide an order dated: 16.12.2019 for A.Y.2012-13 at the assessed income of Rs.18,00,000/-. In the statement of facts filed with the Form No.35, the assessee has stated that the assessee is a housewife and the amount deposited was from the sale proceeds received for sale of land. However, no proof of land holding by the assessee and sale thereof has been filed by the assessee. The assessee has not controverted the finding of the AO. In my considered view, the AO was justified in his findings and therefore,

I do not see any reason to interfere with the well reasoned and speaking order of the AO.”

8. Considering the facts and material placed before me, I am of the considered view that that there was no effective representation on behalf of the assessee. It would sub-serve the interest of principle of natural justice if another opportunity is given to the assessee for explaining the source of cash deposits in his bank account. The impugned order is therefore, set aside and the matter is restored to Ld.CIT(A) to verify the correctness of the claim of the assessee that the cash was deposited out of explained resources of income. Grounds raised by the assessee are accordingly, allowed for statistical purposes.

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

Order pronounced in the open Court on 20th December, 2023.

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

** Amit Kumar **

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI