

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No. 3433/Del/2023
(Assessment Year:2012-13)

Gurbans Kaur Virk, Vs. ITO,
H. No. 9, Street No. 7, Ward-5,
Near Vijeta Public Karnal
School, Karan Vihar,
Karnal

PAN: ALBPV0645G

Assessee by : Shri Amit Kaushik, Adv
Revenue by: Ms. Kirti Sankratyayan, Sr. DR

Date of Hearing 04/01/2024
Date of pronouncement 09/01/2024

ORDER

1. The appeal in ITA No.3433/Del/2023 arises out of the order of National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. CIT(A)', in short] in Appeal No. ITBA/NFAC/S/250/2023-14/1057046867(1) dated 13.10.2023 against the order of assessment passed u/s 147 read with Section 144 of the Income-tax Act, 1961 dated 05.12.2019 (hereinafter referred to as 'the Act') by ITO, Ward-2, Karnal (hereinafter referred to as 'ld. AO').

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

"1. That the NFAC grossly erred in law and on the facts and circumstances of the case in dismissing the appeal of the Appellant by confirming the order dated 05.12.2019 passed by the Ld. Assessing Officer under section 144 of the Act.

2. That the NFAC grossly erred in law and on the facts and circumstances of the case in dismissing the appeal of the Appellant by confirming the order dated 05.12.2019 passed by the Ld. Assessing Officer under section 144 of Act without disposing or considering the request for adjournment made by the Appellant.

3. *That the NFAC grossly erred in law and on the facts and circumstances of the case in dismissing the appeal of the Appellant by confirming the order dated 05.12.2019 passed by the Ld. Assessing Officer under section 144 of the Act in violation of the principles of natural justice.*

4. *That the NFAC grossly erred in law and on the facts and circumstances of the case in dismissing the appeal of the Appellant by confirming the order dated 05.12.2019 passed by the Ld. Assessing Officer under section 144 of the Act without application of mind to the material on record.*

5. *That the NFAC grossly erred in law and on the facts and circumstances of the case in dismissing the appeal of the Appellant by confirming the order dated 05.12.2019 passed by the Ld. Assessing Officer under section 144 of the Act without granting opportunity of personal hearing.*

6. *That the NFAC grossly erred in law and on the facts and circumstances of the case in dismissing the appeal of the Appellant by confirming the order dated 05.12.2019 passed by the Ld. Assessing Officer under section 144 of the Act making addition of Rs. 27,48,590/- to the income of the Appellant on surmises.*

7. *That the NFAC erred in law and on the facts and circumstances of the case in not deleting the addition of Rs. 27,48,590/- to the income of the Appellant by the Ld. Assessing Officer under section 144 of the Act.*

8. *That the NFAC on facts and in law erred in not deleting the interest levied by the Ld. Assessing Officer under section 234B and 234C of the Act.*

9. *The Appellant craves for leave to add, amend, vary, omit or substitute any of the aforesaid grounds of appeal at any time before or at the time of hearing of the appeal."*

3. Though the assessee has raised several grounds of appeal, the only effective issue to be decided in this appeal is as to whether the Id CIT(A) was justified in confirming the addition made u/s 69A of the Act in respect of cash deposit of Rs. 27,45,000/- made in the bank account as income from undisclosed source in the facts and circumstances of the case.

4. I have heard the rival submissions and perused the material available on record. The assessee is an individual. During the year under consideration, a sum

of Rs. 27,45,000/- was deposited in cash with Punjab National Bank, Karnal. Based on this information which was obtained by the Id AO, the assessment of the assessee for AY 2012-13 was sought to be reopened vide issuance of notice u/s 148 of the Act on 29.03.2019 after obtaining the prior approval of PCIT, Karnal. The Id AO issued several notices u/s 142(1) of the Act directing the assessee to file return of income and furnished further details. But no compliance was made by the assessee. On two occasions, the husband of the assessee was present before the Id AO and sought adjournment. Thereafter, no compliance was made by the assessee and the Id AO had no other choice but to treat the cash deposit of Rs. 27,45,000/- as income from undisclosed source of assessee and made an addition u/s 69A of the Act and the reassessment proceedings were completed u/s 144 read with Section 147 of the Act on 05.12.2019. Even before the Id CIT(A), no compliance was made by the assessee and accordingly, the Id CIT(A) upheld the action of the Id AO.

5. Before us, the Id AR pleaded that hearing notice sent by the Id CIT(A) were sent by email in electronic mode to the email of the husband of the assessee . The assessee is a housewife and not having any email of her own. Since, the husband of the assessee was entangled with personal family issues with regard to separation of his sister, he could not check the email regularly and respond to the hearing notices before the Id CIT(A). The Id AR pleaded that the source of cash deposits were out of sale proceeds received on sale of immovable property for which necessary evidences are indeed available with the assessee and accordingly prayed for one last opportunity to be given to the assessee by restoring the appeal to the file of Id AO. When this was pointed out to the Id DR, the Id DR vehemently objected to the request of the Id AR by stating sufficient opportunities were given to the assessee and both the orders were passed ex parte by the lower authorities due to non cooperation of the assessee.

6. Though the fact stated by the Id DR is correct but considering the fact that the assessee, being a housewife and not having any email of her own and also considering the totality of the facts and circumstances, I deem it fit and appropriate to restore this appeal to the file of the Id AO for de novo adjudication qua the issue

in dispute before us, in accordance with law. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 09/01/2024.

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated:09/01/2024
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi