

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, MUMBAI

**BEFORE SHRI OM PRAKASH KANT, AM AND
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 2888/Mum/2023
(Assessment Year: 2011-12)

Maruti Prabhakar Auti 701, Nandan Residency, Nawada Phase-II, Taluka Panvel, Panvel – 410 206 Raigad	Vs.	Income Tax Officer Ward 2 Mumbai
PAN/GIR No. AJWPA 8139 K		
(Assessee)	:	(Respondent)
Assessee by	:	Shri Himanshu Gandhi
Respondent by	:	Ms. Kakoli Ghosh
Date of Hearing	:	29.01.2024
Date of Pronouncement	:	29.01.2024

ORDER

Per Kavitha Rajagopal, JM:

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) (‘Id.CIT(A) for short), National Faceless Appeal Centre (‘NFAC’ for short) passed u/s.250 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Year (‘A.Y.’ for short) 2011-12.

2. The assessee has challenged the *ex parte* order passed by the Id. CIT(A) along with the reopening proceeding and the addition made on account of cash deposits amounting to Rs.12,64,980/- with the other consequential grounds.
3. The brief facts are that the assessee is an individual and has not filed his return of income for the year under consideration. The assessee’s case was reopened vide notice

u/s. 148 of the Act dated 24.03.2018 for the reason that there has been cash deposit of Rs.23,58,017/- in the Saving Bank account and time deposits of Rs.12,64,980/-. The assessee filed his return of income in response to the notice u/s. 148 of the Act, declaring total income of Rs.56,066/- which the assessee claims it from salary and house property income after claiming deductions under Chapter VIA of the Act.

4. The ld. Assessing Officer ('A.O.' for short) vide assessment order dated 26.11.2018 passed u/s. 143(3) r.w.s. 147 of the Act determined the total income at Rs.13,21,046/-.

5. Aggrieved the assessee was in appeal before the ld. CIT(A) who vide an *ex parte* order dated 23.06.2023 upheld the addition made by the ld. A.O.

6. The assessee is in appeal before us, challenging the impugned order.

7. We have heard the rival submissions and perused the materials available on record. It is observed that the assessee in his submission before the ld. A.O. has contended that the assessee was an employee of Skytrain Freight Forwarders Private Limited which is engaged in clearing and forwarding business. The assessee further contended that he had only one savings account with Saraswat Co-operative Bank Ltd. at CST branch in which the impugned cash deposits of Rs.12,28,080/- made was of Skytrain Freight Forwarders Private Limited which was subsequently withdrawn by the assessee for meeting out various expenses pertaining to the said company. Further the assessee disowned the balance amount. The ld. A.O. added the impugned amount to the total income of the assessee on the ground that the assessee had failed to substantiate the

source of the cash deposits made in his account. During the proceedings before the first appellate authority, the assessee has been non compliant inspite of several opportunities furnished. The Id. CIT(A) passed an *ex parte* order upholding the addition made by the Id. A.O. without getting into the merits of the case.

8. The learned Authorised Representative ('Id. AR' for short) for the assessee contended that the assessee had filed a written submissions dated 21.06.2023 which has not been considered by the Id. CIT(A) for which the learned Departmental Representative ('Id.DR' for short) vehemently controverted to the same. As the issue has not been decided on merits by the Id. CIT(A), we deem it fit to remand this issue back to the file of the Id. CIT(A) to provide the assessee one more opportunity to present his case before the first appellate authority on complying with the principles of natural justice. The assessee is hereby directed to co-operate with the proceedings before the Id. CIT(A) without any undue delay. We, therefore, remand this issue back to the file of the Id. CIT(A) for *de novo* adjudication.

9. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 29.01.2024.

Sd/-

(O. P. Kant)
Accountant Member

Sd/-

(Kavitha Rajagopal)
Judicial Member

Mumbai; Dated : 29.01.2024

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai