

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE 'SMC' BENCHES :: PUNE

BEFORE SHRI INTURI RAMA RAO, HON. ACCOUNTANT MEMBER

ITA No.1437/PUN/2023
(A.Y. 2017-18)

Tulsidas Kanayalal Soneji, A-1 Market, Sai Chowk, Pimpri, Pune- 411018. PAN: ABZPS 0978 F	vs	ITO, Ward-8(3), Pune.
Appellant		Respondent

Assessee by	:	Smt. Deepa Khare, Adv.,
Revenue by	:	Shri Ganesh B. Budruk, DR
Date of hearing	:	12/02/2024
Date of pronouncement	:	13/02/2024

ORDER

This appeal preferred by the assessee emanates from the order of National Faceless Appeal Centre [NFAC], Delhi, dated 30.10.2023 for A.Y.2017-18.

2. Brief facts of the case are that assessee is an individual deriving income from selling of optical products under the name and style of M/s. Bharat Opticians. No regular return of income for the A.Y. 2017-18 was filed. There was information available with JAO, in priority-1 category NMS/AIMS cycle that the assessee had entered into the following transactions:-

- a. Cash deposits of Rs. 1,19,25,000/- in current account with the Seva Vikas Co-op. Bank Ltd., Pimpri.
- b. TDS return – other interest (sec.194A) Rs.8,283/-

- c. Cash withdrawals of Rs. 20,54,100/- from Seva Vikas Co-op. Bank Ltd., Pimpri.
- d. Rent received (TDS Form 26Q, sec.194I(b) of Rs. 6,90,000.

On receipt of above information, the Assessing Officer (AO) had issued notice u/sec. 148 on 18/03/2021. The assessee filed his reply to the questionnaire along with necessary documents. The AO was convinced with all the particulars of income declared in the return of income except the difference in cash deposits of Rs. 19,12,071/-, which was brought to tax u/sec. 69A of the Act.

3. Being aggrieved by the order of the AO, assessee filed appeal before the NFAC contending that he explained all the sources of cash deposits made in the current account, which were out of his business receipts. The NFAC had, *ex parte*, dismissed the appeal of the assessee.

4. Aggrieved by the order of the NFAC, the assessee is in appeal before this Tribunal. It is settled position of law that the appellate authority, even while passing *ex-parte* order should dispose of the appeal on merits based on the material on record. Since, in the present case, the NFAC had merely passed the *ex-parte* order without going into the merits of the addition, therefore, the impugned order is set aside and remand the matter back to the file of NFAC for *denovo*

consideration after affording opportunity of being heard to the assessee.

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

Order pronounced in open Court on 13th February, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Dated :13th February, 2024

vr/-

Copy to :

1. The Appellant.
2. The Respondent.
3. The Pr. CIT concerned.
4. The DR, ITAT, "SMC" Bench Pune.
5. Guard File.

By Order

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Senior Private Secretary
ITAT, Pune.