

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No.435/Ind/2023
(Assessment Years: 2011-12)

Ali Ahmad Saifi Flat No.T-3 Ale Imran Building Beldarpura Bhopal (Appellant / Assessee)	Vs.	ITO-Ward Rajgarh (Respondent/ Revenue)
PAN: BTNPS4084H		
Assessee by	Shri Mahendra Mittal, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	08.02.2024	
Date of Pronouncement	08.02.2024	

O R D E R

Per Vijay Pal Rao, JM :

This appeal by the Assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC) Delhi dated 22.09.2023 for A.Y. 2011-12. The assessee has raised following grounds of appeal:

"1 "On the facts and in The circumstances of the case and in law, the Ld. CIT (A) erred in upholding, the action of the Ld. AO in making an addition of Rs.15,36,200/-to the income of assessee on account of unexplained Money u/s. 69A."

2 "On the facts and in the circumstances of The case and in law, the CIT (A) erred in upholding the action of the Ld. AO in making addition of Rs. 15,36,200/- to the income of the assessee u/s. 69A".

3 "The appellant craves leave to add to, alter, amend, vary or delete all or any of the above grounds of appeal"

2. At the time of hearing Ld. AR of the assessee has submitted that the AO has passed ex-parte order u/s 144 of the Act for want of representation on behalf of the assessee. He has pointed out that the assessee runs a retail Kirana Shop and has permanently shifted his residence from village Biaora Rajgarh to Bhopal, M.P. and hence the notice issued by the AO were not received by the assessee as he was not aware about the reassessment proceedings initiated by the AO and consequential assessment order passed ex-parte. Ld. AR has submitted that the AO has made addition on account of unexplained money deposited in the bank account of the assessee which was challenged by the assessee before the CIT(A) but again the CIT(A) has dismissed the appeal of the assessee ex-parte by giving reasons that the assessee has not taken opportunity of representation. Ld. AR has pointed out that the CIT(A) sent the notice to e-mail ID sonamvarsha215@gmail.com whereas the assessee provided e-mail ID in form 35 "akdubey482@gmail.com". He has further pointed out that the e-mail ID of the assessee is registered with e-filing portal of the Department but notices were issued by the CIT(A) at e-mail ID not related to the assessee. He has filed a copy of notice downloaded from the system reflecting e-mail ID where the notices were sent by the CIT(A). Thus, the Ld. AR has submitted that in the absence of any notice send to the assessee, he

could not represent before the CIT(A). Hence, he has pleaded that the impugned order may be set aside and matter may be remanded to the record of the AO for fresh adjudication.

3. On the other hand, ld. DR has fairly submitted that the relevant details and explanation of source of deposit are required to be verified at the level of the AO therefore, matter may be remanded to the record of the AO for examination and fresh adjudication.

4. We have considered rival submission as well as relevant material on record. The AO has passed ex-parte assessment order u/s 144 r.w. section 147 when there was no response on behalf of the assessee to the notices issued by the AO. The assessee has explained and also stated in the statement of facts that during the relevant period of assessment proceedings the assessee permanently shifted his residence from Biaora Rajgarh to Bhopal and therefore, he could not received the notices issued by the AO and consequently could not participate in the assessment proceeding. The CIT(A) has also passed ex-parte order and confirmed the addition made by the AO. The Ld. AR of the assessee has produced a copy of notice/letter downloaded from the Income Tax Department portal which shows that notice was sent to the E-mail ID sonamvarsha215@gmail.com whereas the e-mail ID given by the assessee in form 35 as well as registered e-mail ID of the assessee was not taken by the CIT(A) for sending the notice. Accordingly it is apparent that the notice issued by the CIT(A) at a

wrong e-mail ID is the reason for non-representation on behalf of the assessee in the proceeding pending before the CIT(A). Accordingly in the facts and circumstances of the case and in the interest of justice we set aside the impugned order of the CIT(A) and remand the matter to the record of the AO for fresh adjudication after verification and examination of the relevant details and explanation to be submitted by the assessee. Needless to say the assessee be given an appropriate opportunity of hearing before passing fresh order

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

Order pronounced in the open court on conclusion of hearing on
08 .02.2024.

Sd/-
(B.M. BIYANI)
Accountant Member

Sd/-
(VIJAY PAL RAO)
Judicial Member

Indore, _ 08.02.2024

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

*Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore*