

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC" NEW DELHI**

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 3877/Del/2023

Assessment Year: 2017-18

(Through video conferencing)

Intekhab Husain, 68, Matipur urf Maini, Moradabad-244001.	<u>Vs</u>	ITO, Ward-2(1), Moradabad.
PAN- ADNPH9425N		
APPELLANT		RESPONDENT
Assessee represented by	Shri Neeraj Jain, CA & Shri P.K. Mishra, CA	
Department represented by	Shri Om Parkash, Sr. DR	
Date of hearing	20.02.2024	
Date of pronouncement	20.02.2024	

ORDER

PER KUL BHARAT, JM:

This appeal, preferred by the assessee, is directed against the order of the learned CIT (A), National Faceless Appeal Centre (NFAC), Delhi, dated 07.11.2021, pertaining to the assessment year 2017-18. The assessee has raised following grounds of appeal:

- “1. That the order of learned Commissioner of Income Tax (Appeals) is bad in law as well as on the facts and in the circumstances of the case.*
- 2. That the learned Commissioner of Income Tax (Appeals), has erred in stating that adequate opportunity of being heard was given to the appellant in the assessment proceedings.*
- 3. That the learned Commissioner of Income Tax (Appeals) has erred in passing the order u/s 250 without providing any proper opportunity of being heard to the appellant.*
- 4 That the learned Commissioner of Income Tax (Appeals), has erred in upholding the decision of the assessing officer of estimating the net profit of Rs. 3,62,000/- at the rate of 8% on cash deposits of Rs. 45,25,500/-.*
- 5. That the learned Commissioner of Income Tax (Appeals), has erred in upholding the addition of Rs. 25,22,000/- u/s 69A treating the same as unexplained money.*
- 6. That the learned Commissioner of Income Tax (Appeals), has erred in upholding the invocation of section 115BBE of the Act on the addition of Rs. 25,22,000/- u/s 69A*
- 7. The above grounds of appeal are without prejudice to each other.*
- 8. The Appellant craves leave to add, alter, amend and/or modify the above grounds of appeal.”*

2. Facts, in brief, are that for A.Y. 2017-18 the AO has noticed that since the assessee did not response to the notice issued u/s 142(1) of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), the case of the assessee was selected for scrutiny assessment u/s 144 of the Act on the basis that during demonetization period the assessee had cash deposits of Rs. 25,22,000/-. Vide order dated 03.12.2019 made u/s 144 of the Act, the AO completed the assessment at Rs. 28,84,000/- by making addition of Rs. 25,22,000/- u/s 69A and Rs. 3,62,000/- u/s

44AD of the Act. Aggrieved against it the assessee preferred appeal before the learned CIT(A) who dismissed the appeal by affirming the action of the AO. Aggrieved against this, now the assessee is in appeal before this Tribunal.

3. Learned counsel for the assessee at the outset submitted that no notice issued by the AO u/s 142(1) or 144 of the Act was ever received by the assessee and therefore, there was no occasion for the assessee to represent its case before the assessing authority. He submitted that in appeal the learned CIT(A) was not justified in observing that assessee was given adequate opportunity during assessment proceedings. He prayed that orders of the authorities below may be set aside and the matter may be restored to the file of AO for assessment afresh after affording reasonable opportunity to the assessee to represent its case.

4. Learned DR supported the orders of authorities below.

5. I have heard rival submissions and perused the material available on record. The stand of the assessee is that notices issued by the AO were not received by him. Looking to the above facts, in order to subserve the interests of natural justice and to be fair to both the parties, I am inclined to set aside the orders of authorities below and restore the matter to the file of AO for assessment de novo after affording adequate opportunity to the assessee to represent its case. Grounds are allowed for statistical purposes.

6. Appeal of the assessee is allowed for statistical purposes only.

Order pronounced in open court on 20th February, 2024.

**Sd/-
(KUL BHARAT)
JUDICIAL MEMBER**

MP

Copy forwarded to:

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

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**