

**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH 'SMC', LUCKNOW**

BEFORE SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No.329/Lkw/2023
Assessment Year: 2017-18

Amrik Singh, Jhauni Purva, Hardoi PAN: DARPS 0109A	Vs.	ITO-3(2), Hardoi, Income Tax Office, Nagheta Road, Hardoi
(Appellant)		(Respondent)

Appellant by	Shri Sanjay Saxena, CA
Respondent by	Shri Sanjeev Krishna Sharma, Addl. CIT (DR)
Date of hearing	27/02/2024
Date of pronouncement	29/02/2024

ORDER

This appeal has been preferred by the assessee against order dated 25.08.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi, for the Assessment Year (AY) 2017-18.

2. The brief facts of the case are that in this case, the information have been received that the assessee had made certain deposits in his various Bank accounts totaling to Rs.11,33,000/- during the demonetization period i.e., between 09.11.2016 and 30.12.2016. The assessee had also not filed any return of income and had also failed to comply with the statutory notices issued u/s. 142(1) of the Income Tax

Act, 1961 (hereinafter called the 'Act'). Accordingly, the Assessing Officer proceeded to invoke the provisions of Section 144 of the Act and completed the best judgment assessment by making an addition of Rs.11,87,660/-.

3. Aggrieved, the assessee approached the Id. First Appellate Authority challenging the addition. The assessee's appeal came to be dismissed by the NFAC as no evidence regarding the source of cash deposits had been furnished by the assessee either before the AO or before the NFAC. Accordingly, in absence of any evidences, the action of the AO was upheld.

4. Now, the assessee has approached this Tribunal challenging the dismissal by the NFAC by raising the following grounds of appeal:

"1. That the CIT (Appeals) erred on facts and in law in confirming the addition of Rs. 11,87,664/- u/s 69A of the Income Tax Act, 1961, which is contrary to the facts and circumstances of the case.

2. That the Id. CIT(A) erred on facts and in law in confirming in taxing the income of Rs. 11,87,664/- u/s 115BBE of the Income Tax Act, 1961 by taxing the same @ 60 percent and surcharge. Further this rate was not applicable to for A.Y. 2017-18.

3. The appellant reserves a right to add/alter/amend any ground of appeal at the time of its hearing."

5. The Id. Authorized Representative submitted that the assessee could not comply with the assessment proceedings as well as the First appellate proceedings because the assessee was an agriculturalist and he was not aware of the various procedures of the Income Tax Department and further he was completely non conversant with the computerized faceless Appeal system. The Id. A.R. prayed that the assessee be provided with one more opportunity to present his case in the proper prospective.

6. Per contra, the Id. Senior Departmental Representative opposed the prayer of the Id. Authorized Representative.

7. I have heard the rival submissions and have also perused the material available on record. Looking in to the facts of this case, I deem it appropriate to restore the file to the Office of the Assessing Officer with the direction to adjudicate the issues afresh after giving a proper opportunity to the assessee to present his case. I also caution the assessee that should the assessee fail to avail the opportunity now being granted, the Assessing Officer shall be at liberty to pass a speaking order, in accordance with law, even if it is ex-parte qua the assessee.

8. In the result, the appeal of the assessee stands allowed for statistical purposes.

(Order pronounced in the open court on 29/02/2024)

Sd/-
(SUDHANSHU SRIVASTAVA)
Judicial Member

Dated: 29/02/2024
Aks

Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT
4. The CIT(A)
5. D.R., I.T.A.T., Lucknow

Asstt. Registrar