

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE "SMC" BENCH : PUNE [VIRTUAL HEARING]

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.1186/PUN./2023 [E-APPEAL]  
Assessment Year 2017-2018

Smt. Shubdha Bhaskar Mane, S.No.14/6/2, Flat No.1, Shitali Partment, Anand Nagar, Vadgaon, Pune – 411 041. PAN ASOPM6812G Maharashtra.	vs.	The Income Tax Officer, Ward – 6 (1), PMT Bldg., Shankar Seth Road, Pune – 411 037. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri P C Patil
For Revenue :	Shri Basavaraj Hiremath

Date of Hearing :	04.03.2024
Date of Pronouncement :	04.03.2024

**ORDER**

**PER SATBEER SINGH GODARA, J.M. :**

This assessee's appeal for assessment year 2017-18, arises against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No.ITBA/NFAC/S/250/2023-24/1056420892(1), dated 22.09.2023, involving proceedings u/s. 143(3) of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. The assessee pleads the following substantive grounds in the instant appeal :

1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A), erred in dismissing the appeal of the appellant without considering and appreciating duly the facts as detailed in the statement of facts and further the detailed submissions made before him and also before the Ld. Assessing Officer during the assessment proceedings and virtually had passed the appellate order thereby only mentioning the contentions of the Assessing Officer and the appellant made in the assessment order without any application of mind about the factual and legal matrix of the issues raised in the grounds of appeal by providing even an iota of his observation and finding and accepting the contentions of the Assessing Officer mechanically in violation of principle of natural justice rendering the appellate order illegal and invalid and hence the said appellate order passed by the Ld. CIT (A) be quashed /set-aside.
- 1.1 On the facts and in the circumstances of the case and in law, the Ld. CIT(A), erred in dismissing the appeal of the appellant without considering and appreciating duly the facts as detailed in the statement of facts and further the detailed submissions made before him and also before the Ld. Assessing Officer during the assessment proceedings and virtually had passed the appellate order thereby only mentioning the contentions of the Assessing Officer in a mechanical manner without giving any cogent reasons in violation of the principle laid down by the Hon'ble Supreme Court in the case of **Siemens Engg. Vs. UOI, AIR 1976 SC 1785** wherein it was held that the rule requiring reasons to be given in support of an order is like the principle of *audi alteram partem*, a basic principle of natural justice, which must inform every quasi-judicial process and must be observed in the proper spirit and mere pretence of compliance with it would not satisfy the requirement of law and further the Apex Court's decision in the case of **CIT Vs. Walchand and Co. Pvt. Ltd (1967) 65 ITR 381 (SC)** wherein it was held that the practice of

recording a decision without reasons in support cannot, but be deprecated. The appellate order therefore so passed confirming two additions as raised in the grounds without application of mind merely referring to contention of the Assessing Officer and ignoring totally the contention of the appellant before the CIT(A) mechanically in violation of principle of natural justice be quashed /set-aside.

- 1.2 On the facts and in the circumstances of the case and in law, the Ld. CIT(A), erred in dismissing the appeal of the appellant without considering and appreciating duly the facts as detailed in the statement of facts and further the detailed submissions made before him and also before the Ld. Assessing Officer during the assessment proceedings and virtually had passed the appellate order thereby only mentioning the contentions of the Assessing Officer in a mechanical manner without giving any cogent reasons in violation of the principle laid down in various judicial decisions, such as **S.M. Mukherjee Vs. Union of India [(1990) 4 SCC 594]**, **M/s. Woolcombers of India Ltd Vs. Woolcombers Workers Union and Others [Air 1973 SC 2758]**, **Kranti Associates (P) Ltd. Vs. Masood Ahmed Khan [2010] 9 SCC 496** and **Pankaj Garg Vs. Meenu Garg [2013] 3 SCC 246** thereby dismissing the appeal of appellant be quashed / set-aside.
2. On the facts and the circumstance of the case and in law the Ld. CIT(A) erred in dismissing the appeal of the appellant thereby confirming the addition made by the Ld. Assessing Officer of Rs. 22,04,415/- on account of business income rejecting the book result of the appellant thereby invoking the provisions of section 145(3) of the I.T. Act, 1961 ignoring and without appreciating the detailed submission made refuting such addition before him along with cogent reasons citing a number of judicial decisions and mechanically without any application of mind accepting the contention of the Assessing Officer totally ignoring the appellant's submission and contentions giving almost no reasons of his own in the appellate order in violation of all factual and legal aspects on such issue of addition made by the Ld. Assessing Officer wrongly and therefore the order of the Ld. CIT(A) confirming such addition being perverse, arbitrary, illegal and bad-in-law be quashed and/or the addition so made be deleted.
- 2.1 On the facts and the circumstance of the case and in law the Ld. CIT(A) erred in dismissing the appeal of the appellant thereby confirming the addition made by the Ld. Assessing Officer of Rs. 22,04,415/- on account of business income ignoring totally the submission and contention made by the appellant before the Assessing Officer during assessment proceeding and also before him during the appellate proceedings and mechanically supporting the contention of the Assessing Officer and without discussing and refuting the factual contention of the appellant put in the submission referring to various judicial decisions in utter violation of the principle natural justice and therefore such addition

made by the Assessing Officer duly confirmed by the CIT(A) being arbitrary, illegal and bad-in-law be deleted.

3. On the facts and the circumstance of the case and in law the Ld. CIT(A) erred in dismissing the appeal of the appellant thereby confirming the addition made by the Ld. Assessing Officer of Rs. 28,93,000/- on account of cash deposits in bank during demonization period ignoring and without appreciating the detailed submission made refuting such addition before him along with cogent reasons against the Standard Operating Procedure (SOP) issued by the CBDT dated 09/08/2019 in F-No. 2 to 5 / 145 / 2019-ITA.II issued in connection with old demonized currency (SBN) notes deposited in various banks and mechanically without any application of mind accepting the contention of the Assessing Officer totally ignoring the appellant's submission and contentions giving almost no reasons of his own in the appellate order in violation of all factual and legal aspects on such issue of addition made by the Ld. Assessing Officer wrongly and therefore the order of the Ld. CIT(A) confirming such addition being perverse, arbitrary, illegal and bad-in-law be quashed and/or the addition so made be deleted.
- 3.1 On the facts and the circumstance of the case and in law the Ld. CIT(A) erred in dismissing the appeal of the appellant thereby confirming the addition made by the Ld. Assessing Officer of Rs. 28,93,000/- on account of cash deposits in bank during demonization period ignoring totally the submission and contention made by the appellant before the Assessing Officer during assessment proceeding and also before him during the appellate proceedings and mechanically supporting the contention of the Assessing Officer and without discussing and refuting the factual contention of the appellant put in the submission made before him in utter violation of the principle of natural justice and therefore such addition made by the Assessing Officer duly confirmed by the CIT(A) being arbitrary, illegal and bad-in-law be deleted.
4. The appellant craves leave to add, alter, amend, withdraw, modify, change or substitute any ground or grounds of appeal or to add any new ground or grounds of appeal during or before the hearing of the appeal.

3. Shri Patil vehemently argued that both the learned lower have wrongly made the impugned addition(s) u/sec.69A r.w.s.115BBE of the Act to the tune of Rs.28.93 lakhs and after estimation of income thereby rejected the books u/sec.145(3) amounting to Rs.22,04,415/-; respectively. The Revenue could hardly dispute that the NFAC's lower appellate discussion has nowhere adjudicated the assessee's foregoing twin substantive grievances in tune with sec.250(6) of the Act requiring it to frame points of determination followed by a detailed adjudication thereupon. It has simply brushed aside the assessee's pleadings in otherwords. Faced with the situation, I deem it appropriate in the larger interest of justice to restore the assessee's instant grounds back to the NFAC for it's afresh adjudication, preferably within three effective opportunities of hearing, subject to the rider that it shall be the taxpayer's onus and responsibility only to file and prove all the relevant facts in consequential proceedings. Ordered accordingly.

4. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open Court on 04.03.2024.

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Pune, Dated 04<sup>th</sup> March, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The Pr. CIT, Pune concerned
4.	D.R. ITAT, "SMC" Bench, Pune.
5.	Guard File.

//By Order//

//True Copy //

Assistant Registrar, ITAT, Pune Benches,  
Pune.