

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, MUMBAI**

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER,**

**ITA No.3429/Mum/2023 (A.Y 2017-18)**

Monica Robert Palukuri B 302, EC 38 Shivkala CHS Evershine City, Vasai Road Gokhivare 401208	Vs.	Income Tax Officer – 19(1)(1) Ashar IT Park, 6 <sup>th</sup> Floor Road No. 16Z, Wagle Indl. Estate, Thane 400604
PAN/GIR No. :ANMPR6194B		
Appellant	..	Respondent

Appellant by :	---- None -----
Respondent by :	Shri Krishna Kumar, JCIT

Date of Hearing	08.05.2024
Date of Pronouncement	08.05.2024

आदेश / O R D E R

**PER AMARJIT SINGH, AM:**

This appeal filed by the assessee is directed against the order passed by the CIT(A) NFAC, Delhi, which in turn arises from the assessment order passed by the A.O u/s 144 of the Income Tax Act, 1961 (the Act), dated 06.12.2019 for A.Y. 2017-18. The assessee has assailed the impugned order on the following grounds before us:

**“1. Ground of Appeal 1: Addition on account of deposit of cash during the demonetization period of specified notes of Rs. 11,80,620**

*On the facts and in the circumstances of the case and in law the Assessing Officer and the Commissioner of Income-tax (Appeals) where an appeal is filed before the Tribunal against the order of*

*Commissioner (Appeals) erred in adding Rs. 11,80,620 without appreciating that the amount was out of the money's received from the travelling business and from her savings.*

*The Appellant prays that the addition of Rs. 11,80,620 made in respect of cash deposits made during the demonetization period to be deleted.*

**Ground of Appeal 2: Addition on account of Business Income on Presumption basis of Rs. 37,82,443/-**

*On the facts and in the circumstances of the case and in law the Assessing Officer and the Commissioner of Income-tax (Appeals) where an appeal is filed before the Tribunal against the order of Commissioner (Appeals) erred in adding Rs. 37,82,443 by applying 8% as the profit percentage on the total credit in the bank account without appreciating the internal transfer by the assessee to its proprietorship concern and partnership concerns and the nature of business of assessee doesn't generate the profits as assumed by the Ld. AO and the CIT(Appeals) in the submission made.*

*The Appellant prays that the addition of Rs. 37,82,443 made in respect of business income on presumptive basis to be deleted.*

**Ground of Appeal 3: Penalty levied on account of non submission of audit report u/s 44AB(a)**

*On the facts and in the circumstances of the case and in law the Assessing Officer and the Commissioner of Income-tax (Appeals) where an appeal is filed before the Tribunal against the order of Commissioner (Appeals) erred in levying penalty without appreciating that assessee is merely an agent for ticket and considering total receipts as the turnover of the assessee.*

*The Appellant prays that the levying of penalty in respect of non submission of audit report should be deleted."*

2. The facts in brief are that the AO as per the information available on AIMS module found that the assessee has deposited cash to the amount of 11,80,620/- during the demonetization period relevant F.Y. 2016-17. Subsequently information was retrieved from the statement of financial transactions on ITBA portal that the assessee had deposited the said amount in his bank account with the ICICI Bank Ltd. during the demonetization period in cash mode. Therefore, notice u/s. 142(1) was

issued to the assessee requesting for filing return of income for AY 2017-18. However, in spite of the notices issued, the assessee has not filed any return of income. Therefore, the case was selected for scrutiny assessment.

3. During the course of assessment proceedings assessee has not made any compliance to the notices u/s. 142(1) issued by the AO. Therefore the AO has completed the assessment ex-arte u/s. 144 of the Act by treating the cash amount deposited in the bank account of Rs.11,80,620/- as unexplained money as per the provisions of s. 69A of the Act.

4. Aggrieved, assessee appealed before the CIT(A). The assessee had not made any compliance to various notices issued by the ld. CIT(A) during the course of appellate proceedings, therefore, the ld. CIT(A) has dismissed the appeal of the assessee holding that during the course of appellate proceedings various opportunities were provided to the assessee but he had not uploaded any response despite issuing notices.

5. Heard the ld. D.R. and perused the material on record In the statement of facts the assessee submitted that she had been into business of travel agency during the year under consideration. She submitted that the documents for the relevant assessment year were not in her possession, therefore she could not provide the relevant details at the time of assessment proceedings. She also submitted that due to the sudden death of her parents during the previous year, i.e., 2016-17 and because of marriage disputes with her spouse, she was not in a position to make necessary compliance before the AO. The assessee has reported all these facts in Form 35 filed before the ld. CIT(A). Neither the ld. CIT(A) has decided the appeal of the assessee on merit after taking into

consideration the material available on record nor the assessee has made compliance to the notices issued by the ld. CIT(A). Looking to the above facts and circumstances for deciding the appeal on merits, we restore this case to the file of the ld. CIT(A) for adjudicating on merits as contemplated in s. 250(6) of the Act after affording adequate opportunity of hearing to the assessee.

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

Order pronounced in the open court on 08.05.2024

Sd/-  
(VIKAS AWASTHY)  
Judicial Member

Sd/-  
(AMARJIT SINGH)  
Accountant Member

Place: Mumbai  
Date: 08.05.2024  
n.p

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. आयकरआयुक्त(अपील) / The CIT(A)-
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण DR, ITAT,  
Mumbai
6. गार्डफाईल / Guard file.

सत्यापितप्रति //True Copy//  
आदेशानुसार/ BY ORDER,

**उप/सहायकपंजीकार (Dy./Asstt. Registrar)**  
**आयकरअपीलीयअधिकरण/ ITAT, Bench,**  
**Mumbai.**