

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC': NEW DELHI**

**BEFORE,
SHRI S.RIFAUH RAHMAN, ACCOUNTANT MEMBER
AND
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

**ITA No.763/Del/2024
(ASSESSMENT YEAR 2012-13)**

Rakesh Yadav C/o C.S. Anand Adv. 104, Pankaj Tower 10 LSC, Savita Vihar Delhi-110092 PAN-ACEPY8009R	Vs.	Income Tax Officer Ward-2(2)(2) Ghaziabad
(Appellant)		(Respondent)

Assessee by	Shri C.S. Anand, Adv.
Respondent by	Shri Om Prakash, Sr. DR

Date of Hearing	14/05/2024
Date of Pronouncement	22/05/2024

ORDER

PER S.RIFAUH RAHMAN, AM:

1. This appeal has been filed by the Assessee against the order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ["Ld. CIT(A)", for short], dated 21/12/2023 for Assessment Year 2012-13.

2. The assessee has raised the following grounds of appeal:

“1. The assumption of jurisdiction u/s 147 is illegal.

2. On the peculiar facts of the case and in law, the proceedings initiated u/s 147 and the notice issued u/s 148 are liable to be quashed.

3. On the peculiar facts of the case and in law, the proceedings conducted on the strength of the notice dt. 28.03.2019 u/s 148 are liable to be quashed because the jurisdictional notice u/s 148 was not served on the assessee.

4. On the peculiar facts of the case and in law, the assessment order dt.21.11.2019 passed u/s 144/147 is liable to be annulled because the notice u/s 142(1) and the notice u/s 144 were not served on the assessee.

5. On the peculiar facts of the case and in law, the addition of Rs. 1860000/- (being the total reported amount of cash deposited in the bank account in FY 2011-12) made u/s 69 is liable to be deleted.

6. The order dt. 21.12.2023 u/s 250 passed by the learned CIT(A)/National Faceless Appeal Centre deserves to be set aside because the same was passed without hearing the assessee (who never come to know about the notices dt. 30.01.2021, 14.09.2023 & 11.12.2023 which were generated through system and placed on I.T. Portal, as he was semi-literate having no technical knowledge to use email and access the I.T. Portal on his own).”

3. The brief facts of the case are, the assessee is an individual and filed his return of income for Assessment Year 2012-13 declaring total income at Rs.1,76,350/-. The Assessing Officer received information that the assessee had deposited cash at Rs.18,60,000/- during Financial Year 2011-12. The case of the assessee was reopened by issueing of notice u/s 148 of the Income Tax Act, 1961 (‘the Act’ for short) and served on the assessee after

recording proper reasons and approval in this regard. Several notices u/s 142(1) were issued along with questionnaire to the assessee to explain the source of cash deposit in bank. The assessee has not made any representation before the Assessing Officer. Accordingly, a show cause notice was issued u/s 144 of the Act, still no reply or no representation was made before the AO. Accordingly, the order u/s 144/147 of the Act was passed.

4. Aggrieved, the assessee preferred an appeal before Ld. CIT(A) and Ld. CIT(A) issued several notices but none appeared before the Ld. CIT(A). The Ld. CIT(A) dismissed the grounds raised by the assessee based on the material available on record.

5. At the time of hearing, the Ld. AR submitted that assessee is a farmer and lives in the village and no access to any communications, therefore, he could not make the representation before lower authorities and he prayed that the issue may be remitted back to jurisdictional AO and further submitted that the assessee has proper records which shows that assessee has proper sources to make deposits.

6. On the other hand, the Ld. DR relied on the orders of the lower authorities.

7. Considered the rival submissions and material placed on record. On a perusal of the assessment order and First Appellate Authority order, we find that even though the Assessing Officer and Ld. CIT(A) provided opportunity on several occasions, assessee could not appear nor complied to the notices issued. We observed that Ld. CIT(A) dismissed the appeal filed by the assessee based on the information available on record.

8. Considering the totality of facts and keeping in view the additions/disallowance made by the Assessing Officer, we are of the opinion that assessee should be given one more opportunity of being heard. Accordingly, in the interest of justice, we are of the view that this matter should go back to the file of the Assessing Officer for *denovo* verification and assessment. Assessee shall cooperate with the proceedings before the Assessing Officer without taking unnecessary adjournments. Needless to say that the Assessing Officer shall give adequate opportunity of being

heard to the assessee. Thus, this appeal is restored to the file of the Assessing Officer accordingly.

9. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 22nd May, 2024.

Sd/-

(SUDHIR PAREEK)
JUDICIAL MEMBER

Sd/-

(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated: 22/05/2024

Pk/sps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI