

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, KOLKATA

Before

Dr. Manish Borad, Accountant Member

&

Shri Pradip Kumar Choubey, Judicial Member

I.T.A. No.1053/KOL/2023

Assessment Years: 2017-18

Gobinda Ghosh 22/H/113, Raja Manindra Road, Paikpara, Kolkata- 700037. (PAN:ASGPG6168B)	Vs.	Income Tax Officer, Ward-45(2), Kolkata.
(Appellant)		(Respondent)

Appearances by:

None appeared for the Appellant

Shri Arup Chatterjee, Addl. CIT appeared for Respondent.

Date of concluding the hearing : 08.05.2024

Date of pronouncing the order : 28.05.2024

ORDER

Per Manish Borad, Accountant Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short “AY”) 2017-18 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the “Act”) by Id. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [in short Ld. “CIT(A)”] dated 24.07.2023 arising out of the assessment order passed u/s 144 of the Act by ITO, Ward-45(2), Kolkata (in short “AO”) dated 24.09.2019.

2. When the case was called for, none appeared on behalf of the assessee. With the assistance of Ld. DR when the records were perused, it is noticed that one of the grounds raised by the assessee is that he did not receive any notice from the Ld. CIT(A) and, therefore,

he could not make any written submission before the Ld. CIT(A) and that the matter has not been heard on merits.

3. We, after hearing the Ld. DR and going through the grounds of appeal and records noticed that the assessee is an individual and his case was selected for scrutiny on account of the information about cash deposit of Rs.10,50,000/- during de-monetization period. Ld. AO called for the information from the Belgachia Road Post Office over the cash deposit and necessary information was received. Assessee failed to appear. Even Inspector was deputed to serve the notice but finally it was served through affixture. Ld. AO concluded the assessment making various additions totalling to Rs.43,97,693/- which, *inter alia*, included addition for unexplained cash deposit during de-monetization period. Aggrieved, assessee preferred appeal before the Ld. CIT(A) but failed to appear, as a result, Ld. CIT(A) confirmed the addition made by the Ld. AO. Now, assessee is in appeal before the Tribunal raising various grounds but in ground no. 7, the assessee has stated that it did not receive any notice from Ld. CIT(A) and, therefore, could not file any written submission and the matter was not heard on merits.

4. Ld. DR vehemently supported the orders of lower authorities.

5. We have heard the Ld. DR and perused the records placed before us. We notice that the assessee appealed against the ex part order u/s. 144 of the Act dated 24.09.2019 before the Ld. CIT(A). In the impugned order, Ld. CIT(A) stated that various dates of hearing were issued asking the assessee to furnish written submission but there was no response. Ld. CIT(A) based on the available records completed the proceedings. We note that the assessee did not get any opportunity to furnish the details before the lower authorities.

Though the Ld. AO has taken necessary measures to contact the assessee but so far as the Ld. CIT(A) is concerned only notices were sent on the e-mail. The system of faceless appellate proceedings is new and there are various assesseees who are not well conversed with this new technological developments. Also, the assessee is connected with the department through its legal representative and sometimes e-mail ID of the office of the authorized representative are mentioned and the notice of hearing is not communicated to the assessee for certain unavoidable reasons. However, assessee has a right to get proper opportunity of hearing and also to file written submission in support of his grounds so that correct income should be assessed. We thus, in the interest of natural justice and fair play remit all the issues raised by assessee on merits to Ld. CIT(A) for necessary adjudication, who shall provide the assessee with a reasonable opportunity of being heard. The assessee is also directed to furnish correct e-mail address to the appellate authority and also update the correct e-mail address on the PAN data base and should not take adjournment unless otherwise required for reasonable cause.

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

Order is pronounced in the open court on 28th May, 2024.

Sd/-
[Pradip Kumar Choubey]
Judicial Member

Sd/-
[Dr. Manish Borad]
Accountant Member

Dated: 28th May, 2024

J.D. Sr. PS.

Copy of the order forwarded to:

1. **Appellant** –
2. **Respondent** –
3. CIT(A), NFAC, Delhi
4. CIT
5. Departmental Representative
6. Guard File.

True copy

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata