

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर  
IN THE INCOME TAX APPELLATE TRIBUNAL  
INDORE BENCH, INDORE  
**BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER**  
**AND**  
**SHRI B.M. BIYANI, ACCOUNTANT MEMBER**

ITA Nos.559/Ind/2023  
(Assessment Year: 2017-18)

Bhuramal Tanted, Nehru Marg, Sailana, M.P	Vs.	ITO-2 Ratlam
(Appellant / Assessee)		(Respondent/ Revenue)
<b>PAN: ATQPT1456L</b>		
Assessee by	Shri Apurv Mehta, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	30.05.2024	
Date of Pronouncement	31.05.2024	

**ORDER**

**Per Vijay Pal Rao, JM :**

This appeal by the assessee is directed against the order dated 31.10.2023 of Commissioner of Income Tax (Appeal), National Faceless Appeal Centre, Delhi both for the Assessment Year 2017-18. The assessee has raised following grounds of appeal.

1. *On the facts and in the circumstances of the case and in law, the Ld. Commissioner of Income Tax (Appeals), NFAC (' the Ld. CIT(A), NFAC') has erred in confirming the addition of Rs.17,89,000/- made by the Ld. Income Tax Officer-2, Ratlam ('the Ld. Assessing Officer') without*

*considering the facts of the case. Thus, the addition of Rs.17,89,000/- is liable to be deleted.*

*2. On the facts and in the circumstances of the case and in law, the Ld. CIT(A), NFAC and the Ld.AO have erred in not appreciating that the assessee is a Kisan (Agriculturist) and cash has been deposited out of accumulated and agriculture income of the assessee who was aged 93 years during the relevant Assessment Year 2017-18 and residing in rural area. Thus, the addition of Rs.17,89,000/- made without considering the facts and circumstances of the case is liable to be deleted.*

*3. On the facts and in the circumstances of the case and in law, the.AO has erred in making addition of Rs.17,89,000/- without appreciating that amount of Rs.17,89,000/- is very reasonable considering the facts and situation of the assessee who is a Kisan (Agriculturist) aged 93 years residing in rural area of village Sailana. Thus, the addition of Rs.17,89,000/- is liable to be deleted.*

*4. On the facts and in the circumstances of the case and in law, the.AO has erred in not considering the documentary evidences (additional evidences) furnished by the assessee before the Ld. CIT(A), NFAC against the appeal filed against Ex-parte Assessment order dated 05.11.2019 and not doing so is wrong and contrary to the provisions of the Act. Thus, the order u/s 250 of the Act dated 31.10.2023 is liable to be quashed.*

*The appellant craves leave to add, alter, amend or withdraw any of the grounds of appeal.*

2. At the time of hearing Ld. AR submitted that Ld. A.O has passed an ex-parte order u/s 144 of the Income Tax Act whereby the addition of Rs.17,89,000/- has been made on account of unexplained deposits in the bank accounts of the assessee. The Ld. AR has further submitted that the assessee filed the submissions before Ld. CIT(A) along with supporting evidences comprising of land holding record of the assessee to show the agriculture income as source of deposits in the bank account. Apart from the land holding and revenue record the bank account statements were also

filed before Ld. CIT(A) however, the Ld. CIT(A) has dismissed the appeal of the assessee and confirmed the addition made by the Ld. A.O on the ground that the assessee has not furnished any documentary evidences in support of his claim. The Ld. AR has submitted that the impugned order of Ld. CIT(A) is contrary to the fact as the assessee produced all relevant supporting evidences alongwith written submissions before Ld. CIT(A) but he failed to consider the said documentary evidences while passing the impugned order. He has referred to the paper book running into 35 pages and submitted that the written submissions alongwith the other supporting evidences were duly filed before Ld. CIT(A) but the same has not been considered. Therefore the Ld. AR pleaded that the impugned order be set aside and the matter may be remanded to the record of the Ld. A.O for fresh adjudication after considering the explanation of the assessee as well as supporting evidences.

3. On the other hand Ld. DR has not seriously opposed the prayer of the assessee for remanding the matter to the record of the jurisdictional A.O for fresh adjudication.

4. We have considered the rival submissions as well as relevant material on record. The assessee filed his return of income on 31.03.2018 declaring total income of Rs.4,96,040/-. In the scrutiny assessment the case was taken up to verify the large cash deposited during the demonetization period. Since there was no reply on behalf of the assessee to the notice issued by the Ld. A.O therefore, he proceeded to frame the assessment on best judgment basis u/s 144 of the Income Tax Act and made the addition of entire deposit of Rs.17,89,000/-. Ld. CIT(A) has confirmed the addition made by the Ld. A.O in para 7 and 8 as under:-

### **7. Findings**

*7.1 I have carefully considered the submissions of the appellant as well as perused the order u/s 144 and the grounds of appeal have been examined. The grounds of appeal are effectively directed against assessment u/s 144 and application of section 115BBE and since they are inter related, they are taken together and adjudicated together.*

*7.2 The Assessing Officer has made addition u/s 69 considering the cash deposits as unexplained money of the appellant as the appellant has not complied to any of the notices during the assessment proceeding thereby failing to explain the source of cash deposits.*

*7.3 During the appellate proceeding, the appellant furnished his submission which has been examined. The appellant furnished his explanation where he stated that this deposit was from business receipts and a portion of savings accrued from agricultural income over the many preceding years. Further he stated that he had also given some amounts on loan to small farmers on which he had earned interest income of Rs.81524/- and such loans were also received back and deposited during the year.*

*However, it is seen that the appellant has not furnished any documentary evidence in support of his claims. In the absence of any documentary evidence to prove his claim, the genuineness of his claims cannot be verified. Therefore, I am of the view that the appellant has failed explain the source of cash deposits and the Assessing Officer has rightly treated it as unexplained money u/s 69A. The case laws cited supra by the appellant are also considered distinguishable from the case of the appellant.*

### **8. Decision**

*8.1 In view of the discussion as above, I am of the view that the Assessing Officer has rightly treated it the unexplained cash deposits as unexplained money u/s 69A and accordingly taxed it u/s 115BBE. The addition of Rs.17,89,000/- is hereby confirmed. Accordingly the grounds of appeal are hereby dismissed.*

5. Thus it is clear that the Ld. CIT(A) has mentioned that he has carefully considered the submissions of the assessee but the addition was confirmed on the ground that the assessee has not furnished any documentary evidence in support of the claim. The assessee has produced before us the supporting evidences comprising of the agricultural land holding, revenue record, bank account statements which were stated to be filed alongwith written submissions before Ld. CIT(A). Since the evidence which are placed in the paper book have not been considered by the authorities below therefore, in the facts and circumstances of the case and in the interest of justice, we are of the considered opinion that the matter requires a proper verification and examination of the

relevant record and evidences produced by the assessee at the level of the Ld. A.O. Accordingly the impugned order of the Ld. CIT(A) is set aside and the matter is remanded to the record of jurisdictional Ld. A.O for fresh adjudication after considering the explanation of the assessee as well as verification and examination of the relevant evidences filed by the assessee.

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

Order pronounced in the open court on 31.05.2024.

**Sd/-**  
**(B.M. BIYANI)**  
Accountant Member

**Sd/-**  
**(VIJAY PAL RAO)**  
Judicial Member

**Indore, 31.05.2024**

**Dev/Sr. PS**

*Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File*

*By order*

*Sr. Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore*