

**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW BENCH "SMC", LUCKNOW**

**BEFORE SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

ITA No.79/LKW/2024

A.Ys. 2021-22

|   |     |                              |
|---|-----|------------------------------|
| Mr. Bhupendra Kumar Tiwari,<br>P.S. Bhitaree-1, Wazirganj,<br>Distt. Gonda<br>PAN AGMPT 0366J | Vs. | ITO,<br>Ward 6(1)<br>Lucknow |
| (Appellant)   |     | (Respondent)                 |

|                       |   |
|-----------------------|---|
| Appellant by          | Shri Rakesh Garg, Advocate                    |
| Respondent by         | Shri Sanjeev Krishna Sharma,<br>Addl. CIT(DR) |
| Date of hearing       | 10/04/2024                                    |
| Date of pronouncement | 29/04/2024                                    |

**ORDER**

This appeal has been preferred by the assessee against order dated 15.12.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi for Assessment Year (AY) 2021-22 wherein, the assessee's appeal has been dismissed in limine for the reason of non compliance.

2. The brief facts of the case are that the assessee is an Individual. The assessee's case was selected for scrutiny through CASS. The assessee filed his e-return of income on 29.12.2022 declaring total income of Rs.5,72,710/-. The assessment was

completed u/s. 144 of the Income Tax Act, 1961 (hereinafter called the 'Act') at a total income of Rs.29,15,157 /- as there was non-compliance by the assessee.

3. Aggrieved, the assessee approached the ld. First Appellate Authority challenging the said addition. However, again, there was no compliance by the assessee and, therefore, the appeal of the assessee came to be dismissed by the NFAC.

4. Now, the assessee has approached this Tribunal challenging the dismissal of his appeal by the NFAC by raising the following grounds of appeal:

*"1. BECAUSE the Ld. Assessing Officer has erred in law and on facts in making assessment at Rs.29,15,157/- on the plea that assessee didn't response to notices while the fact is that the assessee is not computer friendly, against income declared of Rs.5,72,710/- and disallowed loss claimed under house property Rs.92,447/-, also disallowed deduction under Chapter VI-A Rs.1,50,000/- and also addition of cash deposited at bank Rs.21,00,000/- which was taken from close relatives and friends for purchase of land.*

*2. BECAUSE the Ld. Assessing Officer did not consider the fact that a sum of Rs.92,447/- has been claimed as loss under house property by the assessee against which deduction wrongly Rs.92,447/- disallowed for Rs.92,447/-*

*3. BECAUSE the Ld. Assessing Officer did not consider the fact that a sum of Rs.1,50,000/-has been elaimed under*

*chapter VI-A by the assessee against which deduction wrongly disallowed for Rs. 1,50,000/-.*

*4. BECAUSE the Ld. Assessing Officer has erred in making assessment u/s 69A of Income Tax Act, 1961 as cash was deposited in the bank out of amount received from close relatives for the purpose of land purchase, therefore cash deposited out of amount received from close relatives and friends for the purpose of land purchase should not be considered u/s 69A of Act, 1961.*

*5. BECAUSE the Ld. Assessing Officer has erred in making assessment u/s 69A of Income Tax Act, 1961, while section 69A under which addition made is not applicable to assessee.*

*6. BECAUSE the Ld. Assessing Officer has erred in tax calculation u/s 115BBE while section 69A under which addition made is not applicable.*

*7. BECAUSE the Ld. Assessing Officer has erred in fact and in law in making the assessment order without giving the reasonable opportunity of being heard.*

*8. BECAUSE the Ld. Assessing Officer has erred in initiation of penalty proceeding u/s 274 read with section 270A while my income is below exemption limit i.e. Rs.250000/-.*

*9. BECAUSE the Ld. Assessing Officer has erred in initiation of penalty proceeding u/s 274 read with section 271AAC(1) while section 69A under which addition made is not applicable to assessee.*

*10. BECAUSE the Ld. . Assessing Officer has erred in interest calculation as interest should not be calculated u/s 234A and 234B of Income Tax Act. 1961.*

*11. BECAUSE the order of Ld. Assessing Officer is arbitrary, misconceived and against law of natural justice.*

*12. BECAUSE the order is erroneous and bad in law and on facts.*

*13. BECAUSE the appellant craves leave to add, modify or withdraw any ground of appeal with the kind permission of your honour.”*

5. The Ld. A.R. prayed that the appeal may be restored to the Office of the Assessing Officer for the purposes of adjudication on merits.

6. The ld. D.R. had no objection to the restoration of appeal as requested by the ld. A.R..

7. I have heard both the parties and have also perused the material on record. It is evident that there was complete non compliance on the part of the assessee during the course of first appellate proceedings. However, looking into the facts of this case, I am of the considered view that the assessee deserves one more opportunity to present his case and, therefore, in the interest of substantial justice, I restore this file to the Office of the Assessing Officer (AO) with the direction to provide one more opportunity to the assessee to present his case and I also caution the assessee to fully comply with the directions of the AO in the set-aside proceedings when called upon to do so, failing which, the AO shall be at complete liberty to pass the order in accordance with

law, based on the material available on record even if it is ex-parte qua the assessee.

8. In the result, the appeal of the assessee stands allowed for statistical purposes.

(Order pronounced in the open court on 29/04/2024)

**Sd/-**  
**(SUDHANSHU SRIVASTAVA)**  
**JUDICIAL MEMBER**

Aks –

Dtd. 29 /04/2024

*Copy of order forwarded to:*

(1) *The appellant*  
(3) *Commissioner*  
(5) *Guard File*

(2) *The respondent*  
(4) *Departmental Representative*

Assistant Registrar