

IN THE INCOME TAX APPELLATE TRIBUNAL “F” BENCH, MUMBAI
BEFORE SHRI B R BASKARAN, AM AND MS. KAVITHA RAJAGOPAL, JM

ITA No. 4765/Mum/2023
(Assessment Year: 2017-18)

Vilas Ramesh Ambekar 20-973, MHB Colony, S C Raheja Marg, Mahim, Mumbai-400 016	Vs.	Commissioner of Income Tax (Appeals) National Faceless Appeal Centre (NFAC) North Block, Delhi-110 001
PAN/GIR No. ACPPA 5602 F		
(Assessee)	:	(Respondent)
Assessee by	:	None
Respondent by	:	Ms. Rajeshwari Menon
Date of Hearing	:	06.05.2024
Date of Pronouncement	:	11.06.2024

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the *ex parte* order of the learned Commissioner of Income Tax (Appeals) ('ld.CIT(A) for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2017-18.

2. As there was no representation on behalf of the assessee, we hereby dispose of this appeal by hearing the learned Departmental Representative ('ld.DR' for short) and on perusal of the materials available on record.

3. The assessee has challenged this appeal on the following grounds:

1. *The Learned Commissioner (Appeals) has erred in passing the Order u/s 250 of income Tax Act,1961 in upholding the addition made by the assessing officer without appreciating the*

fact that none of his electronic notices under the New Faceless Assessment Scheme of the Government were reached to the appellant for filing the timely responses who already waited for more than 3 years earlier for hearing to commence under erstwhile physical hearing mode.

2. The Learned Commissioner (Appeals) has erred in passing the Order u/s 250 of Income Tax Act, 1961 without giving the proper opportunity of being heard to the appellant to represent his case and simply dismissing the following grounds before him:

a) The Ld. AO has erred in law and on facts in making addition of Rs. 58,76,500/- being genuine and explained source of cash deposits in SBN in bank accounts of the assessee during demonetization period as unexplained and illegitimate source of funds.

b) That the order passed by the Ld. AO is bad in law and against the facts of the case.

c) That any other relief or reliefs deemed fit in the facts and circumstances of the case may be granted.

3. The appellant pleads to remand back the case and giving directions to the Learned Assessing Officer and the Learned Commissioner (Appeals) for making the fresh assessment or revision of the order in terms of Section 264 and other provision of Income Tax Act, 1961.

4. The brief facts are that the assessee is an individual an authorized distributor of Vodafone M-pesa Online Electronic Money Transfer Business of Vodafone M-pesa Limited and had e-filed his return of income on 21.02.2018, declaring total income of Rs.7,76,770/-. The return of income was processed u/s. 143(1) of the Act. The assessee's case was then selected for scrutiny under CASS and notice u/s. 143(2) and 142(1) were issued and duly served upon the assessee.

5. The Id. Assessing Officer ('A.O.' for short) observed that as per the information available on ITBA system the assessee has deposited the cash of Rs.3,55,82,850/- during demonetization period in the following bank accounts maintained by the assessee :

SN	Bank Name	Account No.	Amount (Rs.)
1	Corporation Bank	053700201000672	3,08,93,350/-
2	ICICI Bank	003201017946	30,000/-
3	Yes Bank	013463000000034	32,29,000/-
4	Axis Bank	915020065859130	14,30,500/-
Total			3,55,82,850/-

6. The assessee was asked to furnish the details pertaining to the said deposits along with the name, PAN, date, address of all the parties, pertaining to the alleged cash deposit

out of the Vodafone M-pesa money transfer from agent to distributor. After duly considering the submission made by the assessee, the Id. A.O. passed the assessment order dated 27.12.2019 u/s. 143(3) of the Act, making an addition of Rs.58,76,500/- as 'unaccounted receipt' u/s. 68 of the Act for the reason that the assessee has failed to substantiate the said deposits with documentary evidences and thereby determined the total income at Rs.66,53,270/-.

7. Aggrieved, the assessee was in appeal before the first appellate authority, challenging the assessment order.

8. The Id. CIT(A) vide order dated 29.11.2023, upheld the order of the Id. A.O. for the reason that inspite of several opportunity the assessee has failed to substantiate his claim and has been non compliant throughout the appellate proceedings.

9. The assessee is in appeal before us, challenging the impugned order of the Id. CIT(A).

10. We have heard the learned Departmental Representative ('Id.DR' for short) and perused the materials available on record. It is observed that the assessee has challenged the additions made by the Id. A.O. before the first appellate authority but has been non compliant. Even before us, the assessee has not furnished any details pertaining to the said claim.

11. On the above factual matrix of the case, we are of the considered view that the assessee may be given one more opportunity to present his case before the first appellate authority by adhering to the principles of natural justice. We, therefore, remand all these

issues back to the file of the Id. CIT(A) for *de novo* adjudication. The assessee is directed to comply with the proceedings before the first appellate authority without any undue delay on his side.

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

Order pronounced in the open court on 11.06.2024

Sd/-

(B R Baskaran)
Accountant Member

Mumbai; Dated : 11.06.2024

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

Sd/-

(Kavitha Rajagopal)
Judicial Member

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai