

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

BEFORE SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No.119/LKW/2024

A.Ys. 2017-18

Parvindu Duggal, Shahjahanpur, U.P. PAN CVYPM 7158L (Appellant)	Vs.	ITO-1(5), Shahjahanpur-2 (Respondent)
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Appellant by	Ms. Shweta Mittal, CA
Respondent by	Shri Sanjeev Krishna Sharma, Addl. CIT(DR)
Date of hearing	09/05/2024
Date of pronouncement	28/05/2024

ORDER

This appeal has been preferred by the assessee against order dated 19.12.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi for Assessment Year (AY) 2017-18 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 return of income on 03.02.2018 declaring total income of Rs.2,97,690/-. The Assessing Officer

issued notice u/s. 143(2) of the Income Tax Act, 1961 (hereinafter called the 'Act') dated 22.09.2018 to the assessee but there was no compliance from the assessee's side. To provide another opportunity, notice u/s. 142(1) of the Act was issued to the assessee but neither the assessee nor his Representative attended the proceedings. Under these circumstances, the Assessing Officer (AO) passed the assessment order u/s 144 of the Act and made addition of Rs.12,56,000 /- u/s. 69A of the Act.

3. Aggrieved, the assessee approached the Id. 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 The Ld. Commissioner of Income-tax (Appeals) has erred in law and on facts in passing the order which is unlawful, unjustified and against the principles of natural justice.

2 The Ld. Commissioner of Income-tax (Appeals) has erred in law and on facts in passing the order without giving adequate opportunity of being heard.

3 The Ld. Commissioner of Income-tax (Appeals) has erred in law and facts in making addition of Rs. 12,56,000/- under section 69A of Income-tax Act. 1961.

4 The Ld. Commissioner of Income-tax (Appeals) has erred in law and on facts in passing the appellate order which is contrary to the facts and law.

5 The appellant craves leave to add, amend, alter or withdraw any grounds of appeal or raise any new ground appeal during the pendency of appeal.”

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 28/05/2024)

Sd/-
(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

Aks –
Dtd. 28/05/2024

Copy of order forwarded to:

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| (1) <i>The appellant</i> | (2) <i>The respondent</i> |
| (3) <i>Commissioner</i> | (4) <i>Departmental Representative</i> |
| (5) <i>Guard File</i> | |

Assistant Registrar