

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 No.158/Ind/2024
(Assessment Year: 2017-18)

Noman Khan S/o Atik Khan Ward No.15, Kanya Shala Road Bareli Raisen	Vs.	ITO Raisen
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: CZWPK3410M		
Assessee by	Shri Arun Jain, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	26.06.2024	
Date of Pronouncement	27.06.2024	

O R D E R

Per Vijay Pal Rao, JM :

This appeal by assessee is directed against the order dated 23.01.2024 of the Commissioner of Income Tax (Appeal), National Faceless Appeal Centre, Delhi for A.Y.2017-18. The assessee has raised following grounds of appeal:

“1.That on the facts and in the circumstances of the case the learned Commissioner of Income Tax (Appeals) [CIT(A)] erred in facts and in law in dismissing the appeal without considering the submissions furnished before him.

2 That on the facts and in the circumstances of the case the learned CIT(A) erred in facts and in law in confirming the addition of? 1190000/- u/s 69A of Income Tax Act as unexplained money whereas it is agricultural income.

3 That on the facts and in the circumstances of the case the learned CIT(A) erred in facts and in law in confirming the addition of? 316084/- as Income from Other Sources whereas ? 310000/- is agricultural income and? 6084/- is bank interest.

4 That on the facts and in the circumstances of the case the learned CIT(A) erred in facts and in law in confirming the assessment order which has arbitrarily and without any basis bifurcated cash deposit in banks of? 2186100/- into following three categories - i) Specified bank notes of ?1190000/- have been treated as unexplained money u/s 69A. ii) Regular notes of ?310000/- have been treated as income from other sources. iii) Remaining regular notes of? 686100/- (2186100-1190000-310000) have been treated as explained money.

5 That on the facts and in the circumstances of the case the learned CIT(A) erred in facts and in law in confirming the disallowance of? 6084/- u/s 80TTA on the ground that deposits on which interest earned is unexplained.

6 That on the facts and in the circumstances of the case the learned CIT(A) erred in facts and in law in confirming the assessment order in which no income has been treated as agricultural income in absence of receipt of sale of agricultural produce and bills of expenses relating to agricultural activities. Land holding books showing 50.58 acres of irrigated agricultural land has not been considered for ascertaining agricultural income whereas no adverse comment has been found in the appeal order regarding land holding. There must be a certain income from agricultural activities. Nothing has been found in the appeal order and assessment order that assessee is not agriculturist and carrying out any other business.

7 That on the facts and in the circumstances of the case the learned CIT(A) erred in facts and in law in confirming the assessment order, which is arbitrary, unlawful, and based on surmises.

8 That on the facts and in the circumstances of the case the learned CIT(A) erred in facts and in law in confirming the assessment order which has accepted the amount of returned income but not accepted same sources of income. Out of the total cash deposit in banks? 2186100/-, income has been assessed to ? 1500000/- and remaining ? 686100/- might have been taken as expenses. But assessee has not furnished any bill for expenses.

9 The appellant prays to seek leave to add or amend any grounds of appeal, if necessary, in the interest of justice under law.

10 The appellant prays to quash the assessment order and kindly allow returned income.”

2. Ld. AR of the assessee has submitted that the AO has made an addition of Rs.11,90,000/- on account of deposit in bank account of the assessee during the demonetization period and also made disallowance of deduction u/s 80TTA of the Act of Rs.6084/-. The AO has passed ex-parte order u/s 144 which was challenged before the CIT(A). The Ld. AR has further submitted that the assessee has explained the source of deposit with supporting evidences showing land holding of the assessee and his family however, the CIT(A) has confirmed the addition made by the AO on the ground that the assessee has not produced the details of crop grown, receipt of sale of agricultural produce of APMC or receipt sale of agricultural produce from any local mandi and form 6R. He has submitted that the assessee was not given opportunity to produce all these records

and therefore, the impugned order passed by the CIT(A) without giving opportunity to submit requisite details after submitting the land holding record of agricultural land is highly arbitrary and unjustified. Ld. AR has submitted that the assessee has now filed the additional evidence in support of the claim of agricultural income which includes invoices of vegetables merchants in support of sale of vegetables, payment certificate of Krishi Upaj Mandi Samiti and bills for purchasing seeds, medicines, pesticides, fertilizers etc., apart from the evidence already filed in the shape of bank account statements, kishan credit card, details of land holding book etc. Thus, Ld. AR has submitted that the assessee was not given an opportunity to file the said evidence by the CIT(A). He has further submitted that the CIT(A) has also confirmed disallowance of deduction u/s 80TTA in respect of interest income of Rs.6,084/- on the saving bank account of the assessee. He has prayed that impugned order of the CIT(A) be set aside and the claim of the assessee be allowed.

3. On the other hand, Ld. DR has submitted that the AO has made an addition of Rs.11,90,000/- on account of cash deposit in specified bank notes out of the total cash deposit of Rs.21,86,100/- . Since the assessee failed to submit any evidence to explain the source of the said deposit therefore, the AO has passed ex-parte order u/s 144 of the Act. Hence, the Ld. DR has submitted that the additional evidence filed by the assessee requires proper verification and examination at the level of the AO and therefore, matter may be remanded to the record of the jurisdictional AO for fresh

adjudication after considering additional evidence filed by the assessee.

4. We have considered the rival submissions as well as relevant material on record. The AO has made an addition on account of unexplained deposit in the bank account of specified bank notes of Rs.11,90,000/- as well as Rs.3,16,084/- as income from other sources. Before the CIT(A) the assessee filed the explanation as well as evidences to show the land holding of the assessee as well as family members of the assessee however, the CIT(A) has confirmed the addition on the ground that the assessee has not produced any bills of expenses incurred for the agricultural activities like purchase of fertilizer and other expenses of cultivation and agricultural operations and details of crop, receipt of sale of agricultural produce etc. Once the assessee has produced land holding details and the CIT(A) found that the said evidence is insufficient then the assessee ought to have been given one more opportunity to produce the requisite supporting evidence. Now the assessee has filed the additional evidence which is required to be verified and examined at the level of the AO. Accordingly the impugned order of the CIT(A) is set aside and the matter is remanded to the record of the jurisdictional AO for fresh adjudication after proper verification and examination of the additional evidence filed by the assessee. It is pertinent to note that the claim of deduction of u/s 80TTA cannot be disallowed on the ground that the assessee has failed to explain the source of deposit in the bank account. The only conditions for allowing the deduction

u/s 80TTA is that the interest of deposits in the bank account, therefore, the AO is directed to allow the deduction as u/s 80TTA in respect of the interest income of Rs.6,084/-.

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

Order pronounced in the open court on 27 .06.2024.

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

Sd/-
(VIJAY PAL RAO)
Judicial Member

Indore, 27 .06.2024

Patel/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*