

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE "A" BENCH : PUNE

BEFORE SHRI RAMA KANTA PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

ITA.No.458/PUN/2024
Assessment Year 2016-17

Gauri Chetan Kawade, Flat No.21, Clover Olympus Society, Tara Bagh, Ghorpadigaon, Pune 411001, Maharashtra PAN : BSAPK0254P	vs.	ITO, Ward-7(1), Pune
(Appellant)		(Respondent)

For Assessee :	Shri Vaibhav Suresh Bhise
For Revenue :	Shri Ramnath P. Murkunde

Date of Hearing :	04.07.2024
Date of Pronouncement :	04.07.2024

ORDER

PER RAMA KANTA PANDA, V.P. :

This appeal filed by the assessee is directed against the order dated 11.01.2024 of the CIT(A)/NFAC relating to the Assessment Year 2016-17.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the order of the CIT(A)/NFAC in confirming the action of the Assessing Officer in determining the total income at Rs.1,47,67,000/-.

3. Facts of the case, in brief, are that the assessee has not filed her return of income. On verification of AIMS data, it was

seen that the assessee has deposited cash in her bank account to the tune of Rs.1,47,67,000/-. Accordingly, the Assessing Officer called for the bank statement and other details from the assessee. Since there was no response and since no return was filed, the Assessing Officer reopened the case of the assessee by recording reasons as per the provisions of section 147 and issued notice u/s.148 of the Act. Again, there was no response from the side of the assessee to such notice issued u/s.148. The Assessing Officer, thereafter, issued notice u/s.142(1) of the Act. Again, there was no response from the side of the assessee. In view of the above, the Assessing Officer completed the assessment u/s.144 of the Act determining the total income of the assessee at Rs.1,47,67,000/-.

4. In appeal, the Id.CIT(A)/NFAC confirmed the action of the Assessing Officer.

5. Aggrieved with such order of the CIT(A)/NFAC, the assessee is in appeal before the Tribunal.

6. The Learned counsel for the assessee referring to page 24 of the paper book submitted that the bank account referred to by the Assessing Officer is a Joint account and the First holder is her Husband Mr. Chetan Suresh Kawade. Referring to page 67 of the paper book, he submitted that the Axis Bank Account referred to by the Assessing Officer has been reflected

in the balance sheet of her husband who carries on business under the name and style 'Shree Associates'. He submitted that since the cash deposited in the bank account belongs to a concern owned by her husband which has already been disclosed to the Department in the return of income already filed by him, therefore, the addition made by the Assessing Officer and sustained by the CIT(A)/NFAC is not justified. He submitted that despite giving all the details, the CIT(A)/NFAC, without considering the same properly has sustained the addition made by the Assessing Officer. He accordingly submitted that the order of the CIT(A)/NFAC be set-aside and the grounds raised by the assessee be allowed.

7. The Learned Departmental Representative, on the other hand, submitted that despite opportunities granted by the Assessing Officer, the assessee did not file any return of income nor responded to the notices issued u/s.148 or 142(1) of the Act. Since no details were filed, the Assessing Officer made the addition which has been upheld by the CIT(A)/NFAC. Therefore, the action of the CIT(A)/NFAC should be upheld. In his alternate contention, he submitted that the matter may be restored to the file of CIT(A)/NFAC for fresh adjudication.

8. We have heard the rival arguments made by both the sides and perused the material on record. We find the

Assessing Officer in the instant case made addition of Rs.1,47,67,000/- as unexplained cash deposit u/s.69A of the Act on the ground that the assessee did not make any submission explaining the source of such cash deposits in the bank account. We find before the CIT(A)/NFAC, the assessee has categorically stated that the so-called deposits in bank account do not relate to her which has been recorded by the CIT(A)/NFAC in para 4 of the order and which reads as under :

“04. During appellate proceedings, the appellant was provided opportunities by way of issue of hearing notice dated 23.12.2020, 17.07.2023, 02.01.2024. The appellant responded on 26.04.2021, 10.07.2023, 08.01.2024. The appellant submitted submission on 10.07.2023, 08.01.2024. The submissions of the appellant are reproduced as under :

“Cash withdraw and deposited in Axis Bank Ltd. Account No.913010012159679 not related to me but its related my husband Mr. Chetan Suresh Kawade (PAN – AXP7144E) and I am only Joint Account Holder that Account Mr. Chetan Kawade e-filed his Income Tax e-return for the account year 15-16. So, transaction of cash withdraw an deposited in Axis Bank Account No.913010012159679 not related me. So, I request you clear the case.”

9. Despite this, the CIT(A)/NFAC without going through the details filed by the assessee sustained the addition. A perusal of page 67 of the paper book shows that the bank account namely Axis Bank, B.T. Kawade Road- 9679 has been reflected in the current assets of Shree Associates. The scanned copy of the same is as under :

SHREE ASSOCIATES
 PROP.- CHETAN SURESH KAWADE
 SR.NO. 97/79/1 GOPALPATTI
 MANJARI ROAD, HADAPSAR PUNE

Current Assets
 Group Summary
 1-Apr-2015 to 31-Mar-2016

Particulars	Closing Balance	
	Debit	Credit
Closing Stock		4,54,05,712.00
Loans & Advances (Asset)		1,09,13,728.00
ARNAV C. KAWADE		3,00,000.00
ASHISH SINGAVI		4,00,000.00
GAURI KAWADE		77,26,322.00
LODHA DILIP KANTILAL		13,00,000.00
NILESH ADHAV		95,000.00
PREETAM NAHAR		5,92,406.00
RAJENDRA GUNDAPANI		5,00,000.00
Sundry Debtors		20,53,000.00
OFFICE NO. 07B & 8B DEEPAK PATIL		14,50,000.00
OFFICE-NO B5 & B6 - DEEPAK PATIL		6,03,000.00
Cash-in-hand		1,97,973.92
Bank Accounts		1,38,462.72
AJIT NAGARI SAH PAT. S/B		9,554.00
AXIS BANK- B. T. KAWADE RD - 9679		1,606.14
HDFC BANK 3502		40,158.88
ICICI BANK A/C NO 1445		72,207.00
PUNYANAGARI NAGARI SAH. PAT- SB- 23/1849		1,860.00
SADHANA SAHAKARI BANK A/C 1093		5,726.00
SADHANA SAHAKARI BANK S/B-786		7,350.70
CHETAN ELECTRONICS		15,15,693.00
GREELEAF RACING & BREEDING P. LTD.		31,63,500.00
Grand Total		6,33,88,069.64



For Shree Associates

[Signature]
 Proprietor

Similarly, a perusal of page 24 of the paper book shows that the assessee is a Joint holder of the Axis Bank Account bearing No.913010012159679. We, therefore, find merit in the submission of the learned counsel for the assessee that the CIT(A)/NFAC has not properly appreciated the facts before deciding the issue. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of CIT(A)/NFAC with a direction to grant one more opportunity to the assessee to substantiate her case and decide the issue as per fact and law. We hold and direct accordingly. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

10. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 04.07.2024.

Sd/-
[MS. ASTHA CHANDRA]
JUDICIAL MEMBER

Sd/-
[RAMA KANTA PANDA]
VICE PRESIDENT

Pune, Dated : 04th July, 2024
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Copy to :

1.	The applicant
2.	The respondent
3.	The Pr. CIT, Pune concerned
4.	D.R. ITAT, A-Bench, Pune
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,
Pune.