

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A", MUMBAI

**BEFORE SHRI PRASHANT MAHARSHI, ACCOUNTANT MEMBER AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

**ITA 2312/Mum/2024
(Assessment year : 2016-17)**

Ajay Baburam Gupta Navi Mumbai 2 Sun Vihar CHS, Plot No.153 Sector 12, Vashi-400 073 PAN : AJIPG4853E	vs	Commissioner of Income Tax Appeal, ITD
APPELLANT		RESPONDENT

Assessee by : Shri Prasham Doshi
Respondent by : Shri Manoj Kumar Sinha (SR.DR.)

Date of hearing : 09/07/2024
Date of pronouncement : 11/ 07/2024

ORDER

PER ANIKESH BANERJEE, J.M:

Instant appeal of the Assessee is preferred against the order of the National Faceless Appeal Centre, Delhi [for brevity, 'Ld.CIT(A)'] passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act'), for Assessment Year 2016-17, date of order 20/11/2023. The impugned order was emanated from the order of the Id. Income-tax Officer, Ward 35(1)(1), Mumbai (in short, 'the A.O.') passed under section 143(3) of the Act date of order 24/12/2018.

2. The assessee has taken the following grounds of appeal: -

"1. The Learned Commissioner of Income Tax Appeal erred in confirming the Assessment by notice u/s 250 of Income tax Act, 1961 Dated 04/01/2021 For A.Y. 2016/17

2. The Learned Commissioner of Income Tax Appeal erred In confirming the Addition of Rs. 17000000/- on account of unexplained Investment u/s 69B of Income Tax Act, 1961 And unexplained cash credit 68 of the income tax act,1961

3. That the Learned Commissioner of Income Tax Appeal erred as Facts And In Law in Completing Assessment on the Basis of Assumption, Submission and totally Ignored the facts the case.

4. That the Learned Commissioner of Income Tax Appeal erred in passing the assessment order without giving Show cause notice of being heard

5. That the impugned order is arbitrary, illegal, bad in Law in Violation of Rudimentary Principle of contemporary Produce

6. That the appellant craves leave to add alter any all ground of appeal before or at the time of the hearing of the appeal"

3. Brief facts of the case are that the assessee is an individual and earned income from salary and income from Other Sources during impugned assessment year. The assessee filed the return under section 139(1) by declaring total income at Rs.17,48,300/-. The case was selected for scrutiny. During the assessment, it was found that the assessee deposited cash Rs.1,70,00,000/- which was added back U/s 69B as unexplained investment and addition of Rs.68,49,000/- which was added back U/s 68 as unexplained cash credit and total income is worked out to Rs.2,55,97,300/-. The aggrieved assessee filed an appeal before the Id. CIT(A). But Ld.CIT(A) allowed the reasonable opportunity to the

assessee for representing the matter before him. But all the notices remained uncompiled and the order was passed ex parte by upholding the assessment order. Being aggrieved on the appeal order, the assessee filed an appeal before us.

4. The Ld.AR Appeared and prayed that the assessee was unable to explain the source of investment amount of Rs.1,70,00,000/- and amount of Rs.68,49,000/- before any of the authorities below. The appeal order was passed ex parte. The Ld.AR prayed for setting aside the matter before the CIT(A) for fresh opportunity before him.

5. The Ld.DR argued and fully relied on the order of the revenue authorities. The Ld.DR invited our attention in appeal order para 3.4.1 which is reproduced as below: -

“3.4.1 Even when one looks at the merits of the case, it is seen that the case had been picked up for limited scrutiny due to large cash deposits and transfer of property. The additions in this case were made on account of unexplained cash credits and unexplained investment, due to the cryptic response furnished by the appellant, without explaining the source of investment in the property or properly backing its claim of receipt of the cash from his late father. The appellant has furnished nothing during the appellate proceedings to explain the same despite repeated opportunities, as mentioned earlier, and therefore I see no reason to interfere with the impugned order. The grounds of appeal are, therefore, dismissed in toto.”

6. We heard the rival submissions and considered the documents available in the record. The addition was made U/s 69B amounting to Rs.1,70,00,000/- and U/s 68 amounting to Rs.68,49,000/- for unexplained cash credit of the assessee. The assessee was unable to explain the issue before any of the authorities. The Ld.CIT(A) had passed the order without considering the merit of the case. The Ld.AR stated that a further opportunity should be given to assessee for representing the matter before the CIT(A). In our considered view, one more

opportunity should be given to the assessee for representing the matter before the CIT(A). Accordingly, we set aside the appeal order and remand back the matter to the file of the Ld.CIT(A). We are not expressing our view on merit of the case which will impair the appeal proceedings. Needless to say, the assessee should get a reasonable opportunity in setting aside appeal proceedings. On the other hand, the assessee should be diligent and comply with the notices before the Id. CIT(A) for quick disposal of the appeal petition.

7. In the result, the appeal of the assessee bearing **ITA No.2312/Mum/2024** is allowed for statistical purposes.

Order pronounced in the open court on 11th day of July 2024.

Sd/-

(PRASHANT MAHARSHI)
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 11/07/2024
Pavanan

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
5. गार्डफाइल/Guard file.

sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

BY ORDER,

//True Copy//

(Asstt. Registrar), ITAT, Mumbai