

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC' : NEW DELHI**

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER

**ITA No.1656/DEL/2024
(Assessment Year: 2012-13)**

Hukum Singh,
S/o Shri Sukh Lal,
H.No.24, VPO Khaira,
Sought West Delhi, Najafgarh,
Delhi – 110 043.

vs.

ITO, Ward 43 (1),
New Delhi.

(PAN : BKEPS0758N)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Vivek Bansal, Advocate
REVENUE BY : Shri Om Prakash, Sr. DR

Date of Hearing : 11.07.2024
Date of Order : 18.07.2024

ORDER

This appeal by the assessee is directed against the order of the ld. CIT (Appeals)/National Faceless Appeal Centre (NFAC) dated 13.02.2024 for the assessment year 2012-13.

2. Grounds of appeal taken by the assessee read as under :-

“1. That under the facts and circumstances of the case, Ld. CIT(A) of National Faceless Appeal Centre (NFAC), Delhi {“CIT(A)”} has failed to appreciate that initiation of reassessment proceedings in the present case is bad in law on the ground that Ld. AO did not have reasons to believe that any income has escaped to be assessed in the hands of the assessee. Though the assessee had filed the return in response to notice issued u/s 148 of the Income Tax Act, 1961 ("the Act"), but no reasons were either provided to the assessee nor extracted in the assessment order. There is no valid approval brought on record

by the AO to show that mandate of section 151 of the Act was discharged.

2. That under the facts and circumstances of the case, Ld. CIT(A) has erred in law as much as in fact in sustaining the additions of Rs.24,54,000/- made by the AO on account of cash deposits by the assessee in his savings account maintained with Allahabad Bank during FY 2011-12 without mentioning that under what section the same has been made.

3. That under the facts and circumstances of the case, Ld. CIT(A) has failed to appreciate that the assessee has submitted proper evidence and explanation to discharge the onus on the assessee and all the evidence and explanation submitted by the assessee before the AO was available on the ITBA portal of the assessee which has not been gone through by Ld. CIT(A) and addition of Rs.24,54,000/- sustained without any application of mind and without considering the material available on record and without adhering to the mandate laid down in sub-section (6) or section 250 of the Act which requires the CIT(A) to dispose of the appeal filed by the assessee by way of order passed in writing stating the points of determination and the decision thereon and also the reasons for the decision. Therefore, the order passed by Ld. CIT(A) is not in accordance with the provisions of sub-section (6) of section 250 of the Act.

4. That under the facts and circumstances of the case, Ld. CIT(A) has erred in law as much as in fact in sustaining the addition by addition of Rs.24,54,000/- by applying the provisions of section 69A of the Act on his own without issuing any notice in this regard. Thus, the impugned order passed by the CIT(A) is contrary to the principle of natural justice and is liable to be quashed.

5. That under the facts and circumstances of the case, Ld. CIT(A) has erred in law as much as in fact in deciding the appeal filed by the assessee by way of an ex-parte order on the basis of notices 30.12.2020 and 18.05.2022 which were requiring to submit online submissions on 14.01.2021 and 02.06.2022 respectively. No notice of hearing has been issued between the period 02.06.2022 to 13.02.2024 and the appeal has been suddenly decided on the basis of notices issued after a lapse of period of 621 days and from this fact it is apparent that

the impugned order is in gross violation of principles of natural justice and the impugned order is liable to be quashed.

6. That under the facts and circumstances of the case learned AO has erred in law as much as in facts in initiating penalty proceedings u/s 271(1)(c) and 271 F of the Act, the issuance of penalty notice may be held invalid.

7. That each of the above grounds is independent and is without prejudice to each other.”

3. Brief facts of the case are that in this case, Assessing Officer made addition of cash deposit of Rs.24,54,000/- in the assessee's saving bank account as income from undisclosed sources under section 69A of the Income-tax Act, 1961 (for short 'the Act').

4. Upon assessee's appeal, ld. CIT (A) confirmed the addition.

5. Against this order, assessee is in appeal before the ITAT. I have heard both the parties and perused the records.

6. Ld. Counsel for the assessee, at the outset, referred to Ground No.5.

The same Ground No.5 is reproduced hereunder :-

“That under the facts and circumstances of the case, Ld. CIT(A) has erred in law as much as in fact in deciding the appeal filed by the assessee by way of an ex-parte order on the basis of notices 30.12.2020 and 18.05.2022 which were requiring to submit online submissions on 14.01.2021 and 02.06.2022 respectively. No notice of hearing has been issued between the period 02.06.2022 to 13.02.2024 and the appeal has been suddenly decided on the basis of notices issued after a lapse of period of 621 days and from this fact it is apparent that the impugned order is in gross violation of principles of natural justice and the impugned order is liable to be quashed.”

7. Referring to this aspect, ld. Counsel prayed that ld. CIT (A) has passed an ex-parte order without giving proper opportunity to the assessee. He prayed that the matter may be remanded to the file of AO as assessee wants to make further submissions.

8. Ld. DR for the Revenue did not have any objection to this proposition.

9. Accordingly, in the interest of justice, I remit the issue to the file of AO. AO shall consider the issue afresh and pass an appropriate order after giving the assessee an opportunity of being heard.

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

Order pronounced in the open court on this 18th day of July, 2024.

**Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 18th day of July, 2024
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Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**