

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, MUMBAI

**BEFORE MS. KAVITHA RAJAGOPAL, JM AND
SHRI RATNESH NANDAN SAHAY, AM**

ITA No. 2232/Mum/2024
(Assessment Year: 2011-12)

Fatima Arif Siddhique Flat No.301, 3 rd Floor, Rishab House, Duncan Road, Maulana Azad, Mumbai-400 004	Vs.	Assessing Officer-Ward 19(1)(5) ITO19(1)(5) Matru Mandir, Grant Road, Mumbai-400 004
PAN/GIR No. CTEPS 9816 F		
(Assessee)	:	(Respondent)
Assessee by	:	Ms. Priti Shukla
Respondent by	:	Shri R. R. Makwana
Date of Hearing	:	23.07. 2024
Date of Pronouncement	:	31.07.2024

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the *ex parte* order of the learned Commissioner of Income Tax (Appeals) (‘ld.CIT(A) for short), National Faceless Appeal Centre (‘NFAC’ for short) passed u/s.250 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Year (‘A.Y.’ for short) 2011-12.

2. The assessee has challenged the *ex parte* order of the ld. CIT(A) on the violation of principles of natural justice and has also challenged the addition of Rs.13 lakhs as unexplained cash credit u/s. 68 of the Act made by the learned Assessing Officer (ld. A.O. for short) and upheld by the ld. CIT(A), along with the other grounds of appeal.

3. The brief facts are that the assessee is an individual and has not filed her return of income for the year under consideration. The assessee’s case was reopened for the reason that the assessee had made cash deposits of Rs.13 lakhs on 31.03.2011. Notice u/s. 148

dated 28.03.2018 of the Act and 142(1) of the Act were issued and served upon the assessee. In response to the notice u/s. 148 of the Act, the assessee filed her return of income dated 07.12.2018, declaring total income at Rs.60,380/-. The ld. A.O. passed the assessment order dated 27.12.2018 u/s. 144 r.w.s. 147 of the Act on the best judgment assessment for the reason that the assessee has been non compliant and thereby determined the total income at Rs.13,60,380/-as 'income from other sources' u/s. 68 of the Act.

4. Aggrieved the assessee was in appeal before the first appellate authority, challenging the assessment order.

5. The ld. CIT(A) vide order dated 29.02.2024 upheld the order of the ld.A.O. for the reason that inspite of several opportunity the assessee has failed to substantiate her claim and has been non compliant throughout the appellate proceedings.

6. The assessee is in appeal before us, challenging the impugned order of the ld. CIT(A).

7. We have heard the rival submissions and perused the materials available on record. It is observed that the assessee has challenged the additions made by the ld. A.O. before the first appellate authority but has been non compliant throughout the appellate proceeding.

8. The learned Authorised Representative ('ld. AR' for short) for the assessee contended that the assessee has got a good case on the merits and prayed that the assessee may be given one more opportunity to present her case before the ld. CIT(A).

9. The learned Departmental Representative ('ld.DR' for short) vehemently opposed to setting aside the issue to the file of the ld. CIT(A) for the reason that the assessee was given several opportunity by the ld. CIT(A) which was not availed by the assessee.

10. On the above factual matrix of the case, we are of the considered view that the assessee may be given one more opportunity to present her case before the first appellate authority by adhering to the principles of natural justice. We, therefore, remand all these issues back to the file of the ld. CIT(A) for *de novo* adjudication on the merits of the case. The assessee is directed to comply with the proceedings without any undue delay on her side.

11. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 31.07.2024

Sd/-

(Ratnesh Nandan Sahay)
Accountant Member

Mumbai; Dated : 31.07.2024

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

Sd/-

(Kavitha Rajagopal)
Judicial Member

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai