

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A' : NEW DELHI

BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT
AND
SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER

ITA No. 3138/Del/2023
Assessment Year : 2017-18

ANITA DABAS,
302, ARTHALA MOHAN
NAGAR, GHAZIBAD,
UTTAR PRADESH-201007
(PAN: AGYPD9788N)
(Appellant)

Vs. ITO, WARD 2(1)(1),
GHAZIABAD
NFAC, DELHI - 110 001

(Respondent)

Appellant by : Shri Suvrat Trikha, Adv.
Respondent by : Shri Kanv Bali, Sr. DR.

Date of hearing : **01.08.2024**
Date of pronouncement : **06.08.2024**

ORDER

PER SAKTIJIT DEY, VP :

This appeal by the Assessee is against order dated 04.09.2023 of National Faceless Appeal Centre (NFAC), Delhi for assessment year 2017-18.

2. The limited grievance of the assessee in the present appeal is against disposal of the appeal through a non-speaking order, that too, without providing reasonable opportunity of being heard.

3. Briefly stated facts are, the assessee is a resident individual. Based on information available in the system of the Department, the Assessing Officer (AO) noticed that during the demonetization period assessee had deposited cash amounting to Rs. 49,93,000/-

in her bank account maintained with Oriental Bank of Commerce, Ghaziabad. He further found that assessee had not filed return of income u/s. 139(1) of the Act for the assessment year under dispute. Accordingly, he issued a notice u/s. 142(1) of the Act to the assessee calling upon her to file a return of income. However, as alleged by the AO, assessee did not comply with the notice and subsequent notices issued to her. Therefore, finding no other alternative, he proceeded to complete the assessment to the best of his judgment u/s. 144 of the Act. While doing so, he not only added back the cash deposit of Rs. 49,93,000/- made during the demonetization period, but he also treated the other credit entries appearing in the bank account amounting to Rs. 79,90,000/- as business receipts and estimated net profit applying the rate of 8%. Accordingly, he added back an amount of Rs. 6,39,200/- to the income of the assessee. Assessee contested the aforesaid additions before the First Appellate Authority.

4. While deciding the appeal of the assessee in Faceless system, the additions were confirmed.

5. Before us, it is the say of the assessee that though a specific request was made to Ld. First Appellate Authority for providing opportunity of hearing, however, the appeal was disposed off through a non-speaking order without providing opportunity to the assessee to furnish evidences in her support. Ld. DR opposed the aforesaid contention of the assessee.

6. We have considered the rival submissions and perused materials on record. We find that the assessment was completed exparte to the best of judgement. Even, the additions were sustained in the First Appellate proceedings on the allegation that the assessee could not furnish any evidence to contest the additions. Be that as it may, fact remains that the assessee did not get proper opportunity either during assessment proceedings or even in course of proceedings before the First Appellate Authority to properly establish her stand. Therefore, to enable the assessee to do so and contest the additions through supporting evidences, we are inclined to restore all the issues arising in the present appeal to the file of the Assessing Officer for fresh adjudication, after providing due and reasonable opportunity of being heard to the assessee. It is open to the assessee to furnish the necessary supporting evidences to establish her claim. We further direct the Assessee to cooperate with the Assessing Officer in finalizing the proceedings.

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

Above decision was pronounced in the Open Court on 06TH August, 2024.

Sd/-

(S RIFAUH RAHMAN)
ACCOUNTANT MEMBER

SRB

Copy forwarded to: -

1. Appellant.
2. Respondent.
3. CIT
4. CIT(A)
5. DR, ITAT

Sd/-

(SAKTIJIT DEY)
VICE PRESIDENT

Assistant Registrar, ITAT, Delhi
Benches