

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
CHANDIGARH BENCH, 'A', CHANDIGARH

**BEFORE SHRI A.D. JAIN, VICE PRESIDENT &
DR KRINWANT SAHAY, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. **04/CHD/2024**

निर्धारण वर्ष / Assessment Year : 2018-19

The ITO, Parwanoo	Vs. बनाम	Amarjeet Singh, Ward No. 9, Village Billanwali Labana, Baddi, Solan H.P. 173205
स्थायी लेखा सं./PAN No: BKQPS7181H		
अपीलार्थी/ APPELLANT		प्रत्यर्थी/ REPSONDENT

निर्धारिती की ओर से/Assessee by : Sh. Sudhir Sehgal, Advocate
राजस्व की ओर से/ Revenue by : Shri Rohit Sharma, CIT DR

सुनवाई की तारीख/Date of Hearing : 06.08.2024
उदघोषणा की तारीख/Date of Pronouncement : 08.08.2024

आदेश/Order

Per Dr. Krinwant Sahay, A.M.:

The appeal in this case has been filed by the Revenue against the order dated 06.11.2023 of the ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi.

2. Grounds of appeal taken by the Revenue are as under: -

- i) *The Ld. CIT(A), NFAC, Delhi has erred in dealing the addition made by the AO amounting to Rs.*

3,34,62,664/- u/s 69A of the income Tax Act, 1961.

- ii) *The Ld. CIT (A) has erred in allowing the appeal of the assessee on the ground of total turnover whereas the addition was made on account of difference in deposits made in the Bank accounts which the assessee failed to explain during assessment as well as during appellate proceedings.*
- iii) *It is prayed that the order of the Ld. CIT (A) be cancelled and that of the assessing officer may be restored.*
- iv) *The appellant craves leave to add or amend any grounds of appeal before the appeal is heard or is disposed off.*

2. Brief facts, as submitted by the ld. Counsel for the Assessee, are as under:-

1. This is a case of an individual who is a Prop of M/s Kiran Telecom and is in the business of Mobile recharge and Mobile Wallet Recharges. The Assessee, thus derives income from commission from Vodafone and Idea Telecom Companies. The Assessee had e-filed his return of income for an amount of Rs. 5,25,850/- on 27.07.2018 and the same was processed u/sec 143(1) of the Act.

2. The case of the Assessee was selected for Limited Scrutiny for verification of cash deposits.

3. The department had information of cash/cheque deposits in various bank as maintained by the Assessee. Based on that, the department show caused the Assessee for verification of total turnover of Rs. 40,83,63,200/- as per the information on the insight portal.

4. The reply was duly filed with the Assessing Officer in response to the show cause notice alongwith all the bank statements as maintained by the Assessee.

5. The AO held that the there is difference of Rs.3,34,62,664/- in the total turnover (calculated on the basis of the bank statements) and the same was added to the total income of the Assessee by resorting to the provisions of sec 69A of the Act. The said alleged difference was only in the bank account of the Assessee as maintained with Axis Bank.

6. The AO was well aware about the modus operandi of the Assessee's business. All the amounts credited in the bank account were ultimately transferred to Vodafone for top-ups/e recharges. So, there was nothing which was unexplained in the case of the Assessee.

Assessee's arguments

7. At the outset it was submitted that there was no difference in the total turnover as per the insight portal of the department and the turnover if calculated from the bank statements as maintained by the Assessee.

8. The total turnover of the Assessee as per all the bank statements from 01.04.2017 to 31.03.2018 are as follows:

Name of the Bank	Amount deposited (cash/cheques/transfers)
Yes Bank	148843027.13
Axis Bank	264902443.00
Union Bank 478	1126916.83
Union Bank 727	12180759.86
Total	427053146.82

9. The AO had alleged that there is difference in turnover with regard to the deposits in the bank account maintained with Axis Bank. The information with the department with regard to deposits in the Axis bank are to the tune of Rs. 24,96,35,800/- and the AO held that the Assessee has only disclosed an amount of Rs. 21,27,49,833/- in Axis Bank. But the fact is that the AO mistakenly took the figures only till 22.01.2018 while calculating the amount of Rs.

21,27,49,833/- . In actual the Assessee has duly shown the amount of Rs. 26,49,02,443/- in Axis Bank.

10. So, the Assessee has already shown more amount, i.e., Rs. 26,49,02,443/- as compared to the insight information with regard to Axis bank i.e Rs. 24,96,35,800/-. So, the addition as made by the Assessing Officer was factually incorrect. The Worthy CIT(A) has held the same and has deleted the addition in para 6.2 of his order.

11. Further, the CIT(A) in para 6.3 has also held that even the levy of provisions of sec 69A of the Act are not correct in the case of the Assessee.

12. The CIT(A) in para 6.2 and 6.3 of his order has given the following findings as under:

- a) The relevant bank statement of Axis Bank has been perused and it is seen that Assessing Authority has used the figures only till 22.01.2018.
- b) Upon consideration of the transactions till 31.03.2018, the turnover of the appellant is in excess of 26cr which is even more than the information as available on the insight portal.
- c) The information on the insight portal needed depth verification during the scrutiny proceedings and the same was not done in this case.

- d) The addition is thus factually incorrect as made by the AO.
- e) The addition is legally also not sustainable. Section 69A of the Act could not have been invoked in this case.
- f) The appellant has stated that all credit/cash transactions pertained to his business activity of prepaid and data card of different telecom companies and the AO failed to establish a case that some of the transactions in the bank account with Axis bank were not regular receipts.
- g) The AO merely relied upon the difference between insight data and information gathered from the assessee instead of making any independent verification of facts.
- h) Thus, the addition was deleted by the CIT(A) both on factual and/legal grounds.

13. During the proceedings before us, the ld. Counsel for the Assessee re-submitted that in fact the difference brought on record by the Assessing Officer of Rs. 3,34,62,664/- was because of the facts that the Assessing Officer had information pertaining upto 22.01.2018 only. The Assessing Officer did not consider the figure from 23.01.2018 to 31.03.2018. In fact, the total amount shown by the Assessee was Rs. 26,49,02,443/- for the period from 01.04.2017 to

21.03.2018 in the bank account in the Axis Bank. The Assessing Officer had information of the amount deposited in the bank account of only Rs. 24,96,35,800/- which is even less than the actual amount deposited by the Assessee in the bank account and later remitted to Vodafone. So, in fact it is not a case of any concealment on the part of the Assessee.

14. The Id. DR relied on the order of the Assessing Officer.

15. We have considered the issue and we find that there is no concealment / suppression of any amount in the bank than the amount brought on record by the Assessing Officer. The difference of amount brought on record by the Assessing Officer in the assessment order is because of the fact that the Assessing Officer has considered the amount of only 09 months while he should have done it for the entire financial year 2017-18. The difference in amount brought on record by the Assessing Officer is also because of this factor only. Based on this fact, the Departmental appeal is dismissed.

16. In the result, appeal of the Revenue is dismissed.

Order pronounced on 08.08.2024.

Sd/-
(A.D. JAIN)
Vice President

Sd/-
(DR KRINWANT SAHAY)
Accountant Member

“आर.के.”

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT,
CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar