

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

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIALMEMBER &  
SMT. RENU JAUHRI, ACCOUNTANT MEMBER

ITA No. 3277/MUM/2024  
(A.Y.2012-13)

Jogiram Hajariji Fulwaria, F/2/2, Rehab Building, F- Wing Jay Ambe SRA CHS, Shell Colony, Chembur, Mumbai – 400071.	Vs.	ACIT – 27(1), 4 <sup>th</sup> Floor, Tower No.6, Vashi RailWay StationComplex, Vashi, Navi Mumbai-400703.
PAN/GIR No. AANPF2697M		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Appellant by	None
Respondent	Ms.Rajeshwari Menon Sr.DR

सुनवाई की तारीख/Date of Hearing	14.08.2024
घोषणा की तारीख/Date of Pronouncement	19.08.2024

**ORDER**

**PER PAVAN KUMAR GADALE, JM:**

The appeal is filed by the assessee against the order of National Faceless Appeal Centre (NFAC), Delhi / CIT(A) passed u/sec147r.w.s144 and 250 of the Act. The assessee has raised the following grounds of appeal:

- 1. The Ld. CIT(A) has erred in not deleting the additions made by the AO pertaining to the cash deposits of Rs. 59,37,480/-*
- 2 The appellant request to delete the additions made.*
- 3. The Appellant craves leave to add, alter, amend and/or rescind any grounds of appeal during the course of the hearing.*

2. The brief facts of the are that, the Assessing Officer(A.O) has received the information that the assessee has made cash deposits in the bank accounts in the F.Y 2011-12 and the assessee has not filed the return of income for the A.Y 2012-13. The A.O has reason to believe that the income has escaped assessment and issued notice u/s 148 of the Act and there was no compliance to the notice. Further the AO has issued notice u/sec 142(1) of the Act calling for the sources of cash deposits in the bank accounts. As the assessee failed to respond to the notices and no information was filed substantiating the cash deposits in the bank accounts, the AO has issued notice u/sec 133(6) of the Act on the IDBI bank and ICICI bank where the assessee has maintained the bank accounts. Whereas on perusal of the bank statements, the A.O found that the assessee has made cash deposits in the IDBI bank of Rs. 38,16,075 and ICICI bank of Rs. 21,21,404/- and all aggregating to Rs.59,37,480/-.Finally the A.O has issued a show cause notice referred at Para 4 of the assessment order. Since there was no compliance by the assessee with the details supporting the cash deposits, the AO has invoked the provisions u/sec 144 of the Act and relied on the material available on record and made best judgement assessment as the assessee could not substantiate with evidence of source of cash deposits, the A.O has treated an amount of Rs.59,37,480/-/- as unexplained cash credit u/sec 68 of the Act and assessed

the total income of Rs.59,37,480/-/- and passed the order u/sec 147 r.w.s144 of the Act dated 01.11.2018

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and has issued notices of hearing and since there was no proper compliance by the assessee to notices.. Therefore the CIT(A) considering the information on record has confirmed the action of the A.O and dismissed the appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal. At the time of hearing none appeared on behalf of the assessee and the Ld. DR supported the order of the CIT(A).

4. We heard the Ld.DR submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no proper compliance nor appearance in spite of providing adequate opportunity of hearing and the notices were issued. Therefore, the CIT(A) was of the opinion that the assessee is not interested in prosecuting the appeal and dismissed the appeal ex-parte confirming the action of the assessing officer. The Ld. CIT(A) has issued the notices of hearing but there was no response and thus the Ld.CIT(A) came to a conclusion that the assessee is not interested and decided the appeal based on the information available on record. Whereas the assessee has raised grounds of appeal challenging the addition made by the A.O and there could

be various reasons for non appearance which cannot be overruled. Therefore, considering the facts, circumstances and principles of natural justice, we shall provide with one more opportunity of hearing to the assessee to substantiate the case with evidences and information. Accordingly, we set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of the Appeal. And we allow the grounds of appeal of the assessee for statistical purposes.

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on  
19.08.2024

Sd/-  
**(RENU JAUHRI)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

Mumbai, Dated: 19/08/2024

KRK

**Copy of the Order forwarded to:**

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,  
(Dy./Asstt.Registrar)ITAT,  
Mumbai