

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No.339/Ind/2024
(Assessment Year: 2017-18)

Mohd Ilyas Menon 13/2 Moti Tabela, No.2 Main Road Moti Tabela Indore (Appellant / Assessee)	Vs.	NFAC Delhi (Respondent/ Revenue)
PAN: BFXPM3384L		
Assessee by	Shri Arpit Gaur, AR	
Revenue by	Shri K. Bala Murali Krishna, Sr. DR	
Date of Hearing	20.08.2024	
Date of Pronouncement	22.08.2024	

O R D E R

Per Vijay Pal Rao, JM :

This appeal by assessee is directed against the order dated 14.02.2024 of the Commissioner of Income Tax (Appeal) National Faceless Appeal Centre (NFAC) Delhi, for A.Y.2017-18. The assessee has raised following grounds of appeal:

“1. That, the learned CIT(A) as well as the Id. AO grossly erred, both on facts and in law, in passing the ex-parte orders without giving proper and effective opportunity of being heard to the appellant.

2. That, without prejudice to the above, the learned CIT(A) grossly erred, both on facts and in law, in confirming the action of the AO for determining the income of the appellant at Rs.59,60,340/- for the relevant assessment year as against the returned income of Rs.4,01,340/- by framing an Assessment Order under s. 147 r.w.s. 144 of the Income-Tax Act, 1961, without affording proper opportunity of being heard to the appellant, which is quite illegal, bad-in-law and void-ab-initio.

3. That, without prejudice to the above, the learned CIT(A) grossly erred, both on facts and in law, in confirming the action of the ld. AO for making an addition of Rs.55,59,000/-u/s. 69A r.w.s. 115BBE of the Act on account of unexplained cash deposits in bank account without properly considering and appreciating the facts and circumstances of the case of the appellant.

4.That, the appellant further craves leave to add, alter or amend the foregoing ground of appeal as and when considered necessary.”

2. At the time of hearing Ld. AR of the assessee has submitted that the CIT(A) has dismissed the appeal of the assessee for non-prosecution when there was no response on behalf of the assessee to the notices issued through e-mail. He has pointed out that all these notices as mentioned in para 3 of the impugned order were issued by the CIT(A) within short span of 20 days and therefore, the assessee was not given a proper and effective opportunity to respond to the notices issued by the CIT(A). He has pleaded that the assessee may be given one more opportunity to explain its case and produce the relevant evidence in support of the deposit made in the bank account. He has further submitted that the AO has passed ex-parte order u/s 144 of the Act and therefore, the matter may be remanded to the record of the AO for fresh adjudication.

3. On the other hand, ld. DR has raised no serious objection if the matter is remanded to the record of the AO for fresh adjudication.

4. We have considered the rival submission and carefully perused impugned order of the CIT(A). The CIT(A) has dismissed the appeal of the assessee for want of any details, documents or submissions filed by the assessee in response to the various notices issued. The details of the notices were given in para 3 of the impugned order as under:

Date of issue of notice	Date of hearing	Mode of service	Remarks
18.01.2024	22.01.2024	E-mail	No response has been received
23.01.2024	29.01.2024	E-mail	No response has been received
01.02.2024	06.02.2024	<i>E-mail</i>	No response has been received
07.02.2024	12.02.2024	<i>E-mail</i>	No response has been received

4.1 We find force in the contention of the Ld. AR that all these notices were issued in a short span of period of 20 days and therefore, the assessee might not have the knowledge about these

notices before the impugned order was passed on 14.02.2024. Further the CIT(A) has not given finding on the merits of the issues but appeal of the assessee was dismissed for non-prosecution. Accordingly in the facts and circumstances of the case the impugned order of the CIT(A) is set aside and the matter is remanded to the record of the jurisdictional AO for fresh adjudication after proper verification and examination of the supporting evidences to be filed by the assessee.

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

Order pronounced in the open court on 22.08.2024.

Sd/-
(B.M. BIYANI)
Accountant Member

Sd/-
(VIJAY PAL RAO)
Judicial Member

Indore, _ 22.08.2024
Patel/Sr. PS

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore