

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.225/Ind/2024
(Assessment Year: 2011-12)

Jila Sahakari Kendriya Bank Maryadit Shajapur Head Office Near Tanki Chouraha AB Road Shajapur (Appellant / Assessee)	Vs.	ACIT-2(1) Ujjain (Respondent/ Revenue)
PAN: AAAAJ0112B		
Assessee by	Mrs. Nisha Lahoti, AR	
Revenue by	Shri K.Bala Murali Krishna Sr. DR	
Date of Hearing	21.08.2024	
Date of Pronouncement	23.08.2024	

ORDER

Per Vijay Pal Rao, JM :

This appeal by assessee is directed against the order dated 23.01.2024 of the Commissioner of Income Tax (Appeal) National Faceless Appeal Centre (NFAC) Delhi, for A.Y.2011-12. The assessee has raised following grounds of appeal:

"1. On the facts and circumstances of the case and applicable law Ld. CIT(A) erred in sustaining the assessment order passed by Ld.AO u/s 147 rws. 143(3) which is contrary to the material on records and provisions of the Act, unjust and bad in law.

2. *On the facts and circumstances of the case and applicable law, Ld. CIT(A) erred in not providing the copy of the approval obtained for issuing notice u/s 148.*

3. *On the facts and circumstances of the case and applicable law, Ld. CIT(A) erred in sustaining the assessment order passed u/s 147 rws 143(3) more particularly when assessment proceedings have already been completed u/s 143(3) and the notice u/s 148 has been issued after the expiry of four years from the end of relevant assessment year without bringing on record failure on the part of the assessee to disclose fully and truly all the material facts.*

4. *On the facts and circumstances of the case and applicable law, Ld. CIT(A) erred in sustaining the addition made by Ld. AO of Rs. 1,50,85,409 towards provision for bad and doubtful debts on account of NABARD sahayta rashi.*

5. *On the facts and circumstances of the case and applicable law, Ld. CIT(A) erred in sustaining the addition made by Ld. AO of Rs. 13,92,900 towards provision for interest on Agricultural Credit Stabilization Fund.*

6. *On the facts and circumstances of the case and applicable law, Ld. CIT(A) erred in sustaining the addition made by Ld. AO of Rs. 26,15,972 towards non payment of TDS on the entire amount of interest without examining the fact that TDS has been duly deducted.*

7. *On the facts and circumstances of the case and applicable law, Ld. CIT(A) erred in sustaining the additions made by Ld. AO without giving sufficient opportunity of being heard.*

8. *The appellant craves leave to add, amend, alter or otherwise raise any other ground of appeal."*

2. At the time of hearing Ld. AR of the assessee has submitted that the CIT(A) has dismissed the appeal of the assessee while passing impugned order ex-parte. She has referred to the various notices issued by the CIT(A) as mentioned in para 5 of the impugned order and submitted that the CIT(A) has issued five notices out of which

four notices were issued during the Covid-19 pandemic period and even the last notice issued in the Month of January 2024 was sent to an E-mail ID not given in form no.35. Thus, the notice issued by the CIT(A) to a different e-mail ID than the E-mail ID given by the assessee in form no.35 were not in the knowledge of the assessee and consequently the assessee could not respond to these notices. She has filed a copy of e-processing portal of the department showing notice issued by the CIT(A) to the E-mail ID other than the given E-mail ID given in the form 35. Thus, Id. AR has submitted that the impugned order of the CIT(A) is liable to be set aside and the matter may be remanded to the record of the CIT(A) for fresh adjudication after giving an opportunity of hearing to the assessee.

3. On the other hand, Ld. DR has relied upon the order of the CIT(A) and submitted that the CIT(A) has issued five notices but there was no compliance on behalf of the assessee and consequently way with the CIT(A) was left with no option but to pass ex-parte order.

4. We have considered the rival submissions as well as relevant material on record. In para no.5 of the impugned order the CIT(A) has given details of the notices issued as under:

Notice issued u/s 250	Date of issue	Date compliance	of	Remarks
ITBA/APL/S/APL-1/2019/20/1024225492(1)	24.01.2020	10.02.2020		Non-complied

<i>ITBA/APL/S/APL-1/2020-21/1027474159(1)</i>	10.07.2020	15.07.2020	Non-complied
<i>ITBA/APL/S/APL-1/2020-21/102982284(1)</i>	16.01.2021	28.01.2021	Non-complied
<i>ITBA/APL/S/APL-1/2020-21/1030930798(1)</i>	24.02.2021	11.03.2021	Non-complied
<i>ITBA/APL/S/APL-1/2020-21/1059706017(1)</i>	15.01.2024	19.01.2024	Non-complied

4.1 As evident from these details that the first four notices were issued during the Covid-19 pandemic period and thereafter last notice issued was on 15.01.2024 GM.COMPLIANCE@UNIONBANKOFINDIA.COM to e-mail ID whereas the assessee has given e-mail ID in form 35 as Dccbsjr@yahoo.com. The CIT(A) has observed in para no.9.2 as under:

"9.2 During the course of appellate proceedings, numerous notices were sent to provide an opportunity of being heard and submit the explanation alongwith documentary evidences in regard to the grounds raised during the appellate stage. However, the appellant assessee has not furnished any documentary evidence even after availing considerable time and opportunities. Ample opportunities to substantiate its claim of has been provided however, in turn no response has been received."

Thus, the appeal of the assessee was dismissed and addition made was by the AO was confirmed for want of submission along with documentary evidence in support of the grounds raised by the assessee. Hence, in the facts and circumstances of the case and in

the interest of justice we set aside the impugned order of the CIT(A) and remand the matter to the record of the CIT(A) for fresh adjudication after giving an appropriate opportunity of hearing to the assessee.

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

Order pronounced in the open court on 23 .08.2024.

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

Sd/-
(VIJAY PAL RAO)
Judicial Member

Indore, _ 23.08.2024

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