

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर  
IN THE INCOME TAX APPELLATE TRIBUNAL  
INDORE SMC BENCH, INDORE  
**BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER**

ITA No.306/Ind/2024  
(Assessment Year: 2012-2013)

Shri Natraj Solanki, EWS-645, Kotra Sultanabad, Bhopal	Vs.	ITO 1(3), Bhopal
(Appellant / Assessee)		(Respondent/ Revenue)
<b>PAN: ATEPS0499Q</b>		
Assessee by	Shri Arpit Gaur, AR	
Revenue by	Shri Ashish Porwal, SR.DR	
Date of Hearing	27.08.2024	
Date of Pronouncement	28.08.2024	

**ORDER**

**Per Vijay Pal Rao, JM:**

This appeal by the assessee is directed against the order dated 08.02.2024 of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centers,(NFAC) Mumbai for A.Y.2012-13.

2. Assessee has raised following grounds of appeal:

*"1. That, the learned CIT(A) grossly erred, both on facts and in law, in passing an ex-parte order 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. 14,01,030/- as against the returned income of Rs.2,45,830/- for the relevant assessment year by framing an Assessment Order under s. 143(3) r.w.s. 147 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 Id. AO for making an addition of Rs. 11,55,200/- on the allegation of unexplained cash deposits in bank account without properly considering and appreciating the facts and circumstances of the case.*

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

3. At the time of hearing Ld. AR has submitted that CIT(A) has passed the impugned order ex-parte whereby the addition of Rs.11,55,200/- made by the A.O on account of cash deposited in the bank account was upheld. Ld. AR has pointed out that the CIT(A) has issued two notices as per the details given at page 4 of the impugned order. The first notice dated 09.01.2021 was sent to a e-mail ID not given in the Form No.35 and therefore, the assessee could not receive the same. The second notice dated 01.12.2023 was sent to correct e-mail ID but the assessee missed the said notice and therefore there was no response to the said notice. Thus, Ld. AR has submitted that the CIT(A) has effectively given only one opportunity to the assessee before passing the impugned order ex-parte. He has pleaded that the assessee may be given one more

opportunity to present its case before CIT(A) and therefore the matter may be remanded to the record of CIT(A) for fresh adjudication.

4. On the other hand Ld. Departmental Representative raised no serious objection if the matter is remanded for fresh adjudication to the record of CIT(A).

5. I have considered rival submissions and carefully perused the impugned order. The CIT(A) has given the details of the notices issued to the assessee before passing the impugned order ex-parte as under:

Sr.No.	Notice issuing date	Date fixed for hearing	Way of service Notice	Result
1	09.01.2021	25.01.2021	E-mail	No compliance
2	01.12.2023	11.12.2023	E-mail	No compliance

5.1 Ld. AR has filed a print out of the processing portal of the Department showing the notice issued to the assessee. The first notice dated 09.01.2021 was issued to the e-mail ID [vermalawchamber71@gmail.com](mailto:vermalawchamber71@gmail.com) whereas the assessee gave the e-mail ID in Form 35 for the purpose of notices/communication as [vinivineet01@gmail.com](mailto:vinivineet01@gmail.com). Therefore the first notice was not sent to the assessee at correct address of e-mail ID. However, the second notice was sent to both the e-mail ID which including the e-mail ID given in the Form 35. Thus it is clear that only one effective

opportunity of hearing was given by the CIT(A) before passing the impugned order ex-parte and for want of prosecution. The CIT(A) has not decided the issue raised by the assessee on merits but simply confirmed the addition made by the A.O for want of any written submissions on behalf of the assessee. Accordingly in the facts and circumstances of the case and in the interest of justice I am of the considered view that the assessee be given one more opportunity of hearing to present its case before CIT(A). Hence, the impugned order of CIT(A) is set aside and the matter is remanded to the record of CIT(A) for fresh adjudication on merits after giving an opportunity of hearing to the assessee.

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

Order pronounced in the open court on 28.08.2024.

Sd/-  
**(VIJAY PAL RAO)**  
Judicial Member

**Indore, 28.08.2024**  
**Dev/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*