

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. 286/Ind/2024
Assessment Year: 2017-18

Suresh Chandra Ahir, Ahir Mohalla, Near Gomabai Netralaya, Neemuch (Assessee/Appellant)	<u>बनाम/</u> <u>Vs.</u>	A.O. Faceless Assessment, Neemuch (Revenue/Respondent)
PAN: ARTPA2812Q		
Assessee by	Shri S.S.Deshpande, CA	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	29.08.2024	
Date of Pronouncement	30.08.2024	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by appeal-order dated 07.03.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 29.03.2022 passed by learned NFAC, Delhi ["AO"] u/s 147 r.w.s. 144/144B of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2017-18, the assessee has filed this appeal on the grounds as mentioned in Appeal Memo (Form No. 36).

2. The background facts leading to present appeal are such that the AO, based on information received from ITBA details of cash deposits of Rs.

1,26,03,200/- in assessee's bank a/c during the financial year 2016-17 relevant to AY 2017-18, issued notice u/s 148 to assessee to undertake proceeding of assessment u/s 147. The AO thereafter also issued notices u/s 142(1) which remained uncompiled by assessee. Then, the AO issued notice final notice dated 21.03.2022 in response to which the assessee filed reply dated 22.03.2022 and furnished certain documents including bank statements. The assessee submitted that the deposits of Rs. 1,26,03,200/- were made from the amounts received from his customers in relation to the activity of Road Transportation Department carried on by assessee but the AO rejected assessee's submission with the reason that no supporting documents were furnished alongwith reply. The AO also noted in Para 3 of assessment-order that no return was filed by assessee. Ultimately, vide Para 5 of assessment-order, the AO assessed total income of assessee at Rs. 1,26,03,200/- by treating the entire deposits in bank a/c as unexplained u/s 69 r.w.s. 115BBE of the act. Aggrieved, the assessee carried matter in first-appeal but could not make any representation, therefore the CIT(A) decided appeal on the basis of material available with him and upheld the addition made by AO. Still aggrieved, the assessee is in next appeal before us.

3. Ld. AR for assessee has filed a Paper-Book containing 174 pages of the documents filed before AO in the form of assessee's Balance-Sheet, Trading A/c, Income-Exp. A/c, Capital A/c, Copy of letter dated 22.03.2022,

Copies of sample receipts of payments made to Road Transport Department and Copy of assessee's bank statement and an affidavit of assessee filed before ITAT. Referring to assessee's letter dated 22.03.2022 filed to AO, copy at Page 3-7 of Paper-Book, Ld. AR demonstrated that the assessee submitted to the AO that he was engaged in the activity of Road Transport Department (RTO) and making payments of road tax, permit fee of vehicles, arranging driving licence, new registration of vehicles and other works pertaining to road tax department on behalf of his customers and that his income was Rs. 2,35,990/-. The assessee also informed that the deposits in his bank a/c to the tune of Rs. 1,26,03,200/- were pertaining to various customers who had given cash to assessee for payment of road tax, permit fee, etc. Ld. AR also carried us to copy of assessee's Trading A/c filed at Page 1 of Paper-Book to show that there is a credit of Rs. 1,26,03,200/- which represents collection from customers and debit of Rs. 1,26,03,200/- which represents payments on behalf of customers. Further, there is a gross-profit of Rs. 3,58,770/- in the shape of commission from activity and alongwith other items of income and deduction of expenses, there remained a net profit of Rs. 2,35,589.38 (rounded off to Rs. 2,35,990/-). Ld. AR submitted that the assessee filed return of income on 22.03.2022 declaring gross total income of Rs. 2,35,990/- after deductions of Rs. 23,700/- under Chapter VI-A vide acknowledgement No. 403527000220322 but the AO has wrongly mentioned that no return was filed. Copy of acknowledgement of return is also placed on record.

4. Ld. AR then carried us to the bank statements of assessee filed at Page 16-174 of Paper-Book to show that there are numerous debit entries each day in the statements with the narrations mentioned by bank as "TRF to Transport Department". Ld. AR, thus, submitted that it is manifest from a cursory examination of bank statement itself that the assessee has made transfers to Transport Department on behalf of his clients/constituents. Therefore, there should not be any doubt about the activity of assessee or transactions in bank a/c. Therefore, the AO is clearly wrong in assessing income of assessee at Rs. 1,26,03,200/- equal to entire deposits in bank a/c made during the year. Ld. AR prayed that there is no income element in the collection of Rs. 1,26,03,200/- made by assessee from clients and remitted to transport department and therefore the addition made by AO deserves to be deleted in entirety. However, Ld. AR standing at the bar asserted that in order to end litigation, the assessee is agreeable to accept additional business income equivalent to 1% of gross-receipts of Rs. 1,26,03,200/- in addition to the income already declared in the return filed by assessee chargeable at normal rates as applicable to business income. Hence, the AO may be directed to assess accordingly. Ld. DR for revenue realising the fact that the assessee's bank statements prima facie support assessee's claim of activity and that the assessee is accepting undisputable additional income, agreed to the alternative proposal made by Ld. AR on behalf of assessee. In that view of matter, we direct the AO to modify assessment-order so as to assess the income declared by assessee in the return filed (+) additional

business income equivalent to 1% of gross-receipts of Rs. 1,26,03,200/- at normal rates of taxes. The assessee succeeds partly in terms of this direction.

5. Resultantly, this appeal is allowed partly.

Order pronounced in open court on 30.08.2024

Sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER

sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 30.08.2024
CPU/Sr. PS

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

By order

Assistant Registrar
Income Tax Appellate Tribunal
Indore Bench, Indore