

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAIPUR BENCH, RAIPUR

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER  
AND  
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA Nos. 360 & 361/RPR/2024  
निर्धारण वर्ष / Assessment Years : 2013-14 & 2014-15

Purushottam Singhania  
B-465, Samta Colony, Raipur  
Chhattisgarh  
PAN : AJGPS4056D

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Income Tax Ward-1(2), Raipur  
Central Revenue Building,  
Civil Line, Raipur (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Amit Malu Jain, Advocate  
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 29.08.2024

घोषणा की तारीख / Date of Pronouncement : 02.09.2024

**आदेश / ORDER****PER RAVISH SOOD, JM:**

The present appeals filed by the assessee are directed against the respective orders passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, u/s 250 of the Income Tax Act, 1961, (in short 'the Act') dated 12.06.2024 for Assessment Years (A.Y.) 2013-14 and 2014-15, which in turn arise from the respective orders of the Assessing Officer (AO) passed u/s 147/144B of the Act, dated 30.03.2022.

2. As the common issues are involved in the captioned appeals, therefore, the same are being taken up and disposed of by way of this consolidated order.
3. We shall first take up ITA 360/RPR/2024 for AY 2013-14 filed by the assessee as the lead matter.
4. The assessee has assailed the impugned order on the following grounds of appeal before us:

**Ground No. 1:** On the fact and in the circumstances of the case, the Ld. Commissioner of Income Tax-Appeals (NFAC) has erred in upholding the assessment order passed by the Assessment Unit – Income Tax Department without considering the detailed submissions made by the appellant with the office of NFAC on 18.04.2024. The addition upheld by the Ld. CIT(A)/NFAC without considering the submission and evidences filed by the appellant is bad in law and deserves to be quashed.

**Ground No. 2:** On the fact and circumstances of the case, the CIT-Appeal/NFAC has erred in sustaining the order of the A.O. wherein the Ld. A.O. has erred in reopening of case merely on suspicion and

not on reason to believe. The reopening of case in absence of any reason and merely on the basis of suspicion is bad in law and the assessment order deserves to be quashed.

**Ground No. 3:** On the fact and circumstances of the case, the CIT-Appeal/NFAC has erred in sustaining the order of the A.O. wherein the Ld. A.O. has erred in making addition without providing the information available with him. By not providing any information, the A.O. has violated the principle of natural justice. The order passed in violation of the principle of natural justice is bad in law and void ab-initio.

**Ground No.4:** On the fact and circumstances of the case, the CIT-Appeal/NFAC has erred in sustaining the order of the A.O. wherein the Ld. A.O. has erred in reopening of the case u/s 148 irrespective of the fact that the case of the assessee was already assessed u/s 143(3) r.w.s. 147 and the assessee has disclosed all material fact during the course of assessment proceeding u/s 143(3) r.w.s. 147. Thus where there is no failure on the part of the assessee, the reopening is against the 1<sup>st</sup> proviso to section 147 and thus is invalid and void ab-initio.

**Ground No.5:** On the fact and circumstances of the case, the CIT-Appeal/NFAC has erred in sustaining the order of the A.O. wherein the Ld. A.O. has erred in making addition of Rs.15,78,773/- treating it as undisclosed/unexplained & unaccounted income of the assessee. The addition made by the A.O. and sustained the same by the NFAC is unjustified, unwarranted and uncalled for.

**Ground No. 8:** The appellant reserves the right to add, amend or alter any grounds of appeal at any time of hearing.”

5. Succinctly stated, the assessee had filed his return of income for AY 2013-14 on 18.03.2014 declaring his total income at Rs.7,11,190 /-.
6. Original assessment order was framed by the AO u/s 143(3) r.w.s. 147 of the Act on 30.11.2018. After treating a credit of Rs.15,78,773/- appearing in the account of Shri Om Prakash Sahu, *i.e.*, a third party, as the unaccounted income of the

assessee, as a beneficiary, the AO vide his order u/s 147 r.w.s. 144B of the Act dated 30.03.2022 assessed the total income of the assessee at Rs.22,89,963/-.

**7.** Aggrieved, the assessee carried the matter in appeal before the CIT(A) but without success. For the sake of clarity, the observations of the CIT(A) are culled out as under:

"DECISION OF THE APPELLATE AUTHORITY W.R.T GROUND NO-1 TO 4:

The contentions of both the Assessing officer and the Appellant assessee resp, have been carefully considered and this Appellate authority has noted the following points:

- i. The assessee is an individual. A original return of income has been filed by the assessee for the year under consideration, on 18/03/2014, declaring total income at Rs.7,11,190/-
- ii. A Bank transaction done in the said bank alc (bank account no 66004062633 maintained with State Bank of India) actually pertains to the assessee and he has used and managed the said bank account for his benefit for routing his unaccounted money through this bank account. There is a credit of Rs.15,78,773/- during the year under consideration in the said account and based on evidences gathered and statements recorded the assessee is the actual beneficiary of all the transactions made in this account.
- iii. Thus, based on such information proceedings u/s147, were initiated by issue of notice u/s148, of Act, on 31/03/2021 by the Assessing officer & the said notice was duly served upon the assessee. The assessee did not file any return in response to the said notice u/s. 148 of the Act, within stipulated time of 30 days & chose not to reply.
- iv. From the above facts, it is noted that, the AO had sufficient reasons on record to form its opinion. The AO followed procedure and issued the notice u/s. 148 of the Act and hence no infirmity is found in the re-opening proceedings, Further, reliance is also placed on the decision of the Hon'ble Supreme

Court of India in the case of ACIT vs Rajesh Jhaveri Stock Brokers Pvt. Ltd 291 ITR 500 wherein held that, if the AO for whatever reason has reason to believe that, income has escaped assessment it confers jurisdiction to reopen the assessment. Therefore, I do not find any procedural lapse or infirmity in the action of the AO as far as re-opening of the assessment within the provisions of section 147 of the Act and so also issuing notice u/s. 148 of the Act is concerned. The Appellant could have been more careful with the compliances to be made in case of such statutory notices. The ground no.- 1 is rejected.

- v. A notice u/s 142(1), was issued & served on the assessee on 27/11/2021 by the Assessing officer, asking details of computation of income under various heads & details of bank accounts as per annexure to the notice. Again no reply/submission was furnished by the assessee. Thus, the AO has provided opportunity to be heard to the appellant. The ground no-2 is rejected.
- vi. In case the appellant had any issues with the re-opening u/s. 148 of the Income Tax Act, 1001 or on the issue of jurisdiction. It is clear from the bare reading of the Section 124(3) of the Income-tax Act, 1961 which stipulates a bar to any contention about lack of jurisdiction of an Assessing Officer. It is not as if the provisions of the Act disable an assessee from contending that, in the given circumstances the AD lacks jurisdiction, rather Section 124(3) limits the availability of those options at the threshold. The assessee upon receipt of notice of the kind mentioned in Clause (a) and (b) of sub-section 3 of Section 124 of the Income-tax Act has the 'option to urge the question of jurisdiction. The two points of time specified in Section 124(3)(a) are as under:

(1) Within one month from the date of service of notice or;

(ii) After completion of assessment-whichever is earlier.

Now whereas the Appellant assessee has raised this issue of AO's jurisdiction for the first time as a ground, during this appeal and has not submitted any such proof or evidence that, it had done so before the AO or within the stipulated time, Further, the AO's assessment order too does not talk of any such challenge made by the assessee regarding the jurisdiction

of AO on its notice during the assessment proceedings. The appellant should have been careful and did not comply with any of the notices sent by the Assessing officer during the course of assessment proceedings. Hence, it will be incorrect for this authority to go into the jurisdiction issue. Lastly, the two points of time' as specified in section 124(3)(a) of the Act have not been adhered to by the assessee when it could have timely urged the question of jurisdiction and where it miserably failed to do so. Thus, there is no infirmity w.r.t the jurisdiction of the AO. Hence, in light of the above discussions and facts of the case and in law, this ground no.-3 of the Appellant is found untenable and hence rejected.

- vii. The assessing officer has found that, the signature of the assessee on the purchase and sale deed of the land pertaining to Shri Omprakash Sahu, shows that the assessee has invested his unaccounted money in purchasing the land in the name of Shri Omprakash Sahu, as he has no credit worthiness.
- viii. The Assessing officer in its assessment order has provided reasons and findings for making addition which are as follows:
  - a. The signature of the assessee on the purchase and sale deed of the land pertaining to Shri Omprakash Sahu, shows that the assessee has invested his unaccounted money in purchasing the land in the name of Shri Omprakash Sahu, as he has no credit worthiness.
  - b. It is clear that, the bank account has been opened with the help of the assessee & his family members as the address given on the KYC found to be the address of the office of Shri Purshottam Singhania and the introducer is also Shri Vinod Singhania. As per the Statement of Shri Omprakash Sahu, he has no knowledge about the present balance in the bank account and bank pass book & cheques are being kept with Shankar Lal Verma. Also the cash has been withdrawn through self-cheque by Shri Shankar Lal Verma (one of the employee of Shri Purshottam Singhania & Shri Saket Singhania). From the above noted bank a/c of Om Prakash SAhu, which shows that the bank account is controlled by Shri Purshottam Singhania (the Appellant.

- c. Therefore, in fact all the bank transactions done in the aforesaid bank a/c pertain to the appellant assessee and he has used the bank account for his benefit for routing his unaccounted money through the said bank account.
- d. During the scrutiny assessment proceedings Shri Omprakash Sahu & Shri Shankar Lal Verma (One of the employee of Shri Purshottam Singhania & Shri Saket Singhania) in their statement on cath have confirmed the fact that, the entire cash deposits are pertaining to the assessee Purshottam Singhania.
- e. Thus, from the above details of verification & discussion made, it is clearly seen that, the credits of Rs. 15,78,773/- in the bank account no. 66004062633 maintained with State Bank of India, in the name of Shri Omprakash Sahu, actually belongs to the appellant assessee. Hence, it was proposed to treat the amount of Rs. 15,78,773/-, as assessee's undisclosed / unexplained unverified & unaccounted income, & added to the total income of the assessee u/s 68 of the Act.
- ix. Based on the above facts, the submissions of the assessee were not found acceptable by the Assessing officer at the time of assessment proceedings and the Assessing officer made the addition amounting to Rs 15,78,773/- on account of unexplained income u/s 68 of the Income-tax Act, 1961.
- x. This Appellate authority sent a notice of hearing u/s 250 of the Income-tax Act, 1961 dated 04.04.2024 and appellant assessee in its submissions made to this Appellate authority on 11.04.2024 merely asked for adjournment.
- xi. Thus, again this appellate authority serit a notice u/s 250 of the income tax act 1961 dated 12.04.2024 the assessee filed its reply dated 13.04.2024 in which the appellant again asked for adjournment from this Appellate authority.

The appellant assessee has not filed any written submissions and also no documentary evidences are provided by the appellant assessee to this Appellate authority.

- xii. This Appellate authority in favor of natural justice provided one more opportunity to the appellant assessee by issuing another notice u/s 250 of the Income-tax Act, 1961 dated 15.04.2024 which is reproduced hereunder:

Annexure

Please refer to this office notice dated 04.04.2024 and 12.04.2024. It is observed that. adjournment was granted to you on 12.04.2024 and offered the opportunity to furnish the reply by or before 15.04.2024, but however the same was ignored and remained uncomplied. Hence, please consider this as a last opportunity to file your details by or before 19.04.2024, failing which the case shall be finalised on merits or dismissed accordingly.

The last date to comply with the said notice was 19.04.2024, but the appellant assessee has not filed any written submissions and also no documentary evidences are provided by the appellant to this Appellate authority till date. It is pretty clear that, the appellant is not serious about its appeal and simply wasting time. It is noted that, the principles of natural justice have been furthered by means of grant of opportunities to be heard. The aforesaid circumstances show that the assessee is wilfully & consciously avoiding furnishing of reply. The maxim "Vigilantibus Non Dormientibus Jura Subveniunt Le, the law assist those who are vigilant & not those who sleep over their rights is applicable in the case. As the appellant assessee is not responding despite this Appellate authority providing it with an opportunity to be heard and not filing any submissions in support of its contentions, Hence, reliance is also placed on the Hon' ITAT in in the case of M/s Chhabra Land & Housing Ltd.ITA No. 1025-1027/CHD/2005 for the AY 2002-03 after following the decision of Hon'ble Supreme Court in the case of B.N. Bhattacharjee& other 118 ITR 461 [SC] held that, the appeal does not mean merely filing of the appeal but effectively pursuing the same.

- xiii. This Appellate authority also places reliance on the following Judgements of the Apex and higher courts and which are as follows:

a. The Hon'ble Supreme Court in the case of Chuharmal Vs CIT (1988) 172 ITR 250 while affirming the view of the Madhya Pradesh High Court has held that the expression "INCOME' as used in Section 69A of the Act, 1961 had a wide meaning which meant anything which came in or resulted in gain and on this basis, concluded that the

assessee had income which he had invested in purchasing article and he could be held to be owner and the value could be deemed to be his income by virtue of Section 69A of the Act.

b. The Hon'ble Supreme Court in the case of Smt. Srilekha Banerjee and others Vs CIT, Bihar & Orissa, reported in 1964 AIR 697, dated 27/03/1963, held that the source of money not having been satisfactorily proved, the Department was justified in holding it to be assessable income of the assessee from some undisclosed source. The Hon'ble Supreme Court further held that "The correct position is as follows. If there is an entry which shows the receipt of a sum or conversion of the notes by the assessee by himself, it is necessary for the assessee to establish, if asked, what the source of that money was and to prove that it did not bear the nature of income. The department is not at this stage required to prove anything. The fact that there was receipt of money or conversion of notes is itself prima facie evidence against the assessee on which the Department can proceed in absence of good explanation."

c. in Manindranath Das v. Commissioner of Income Tax, Bihar & Orissa, the tax payer had encashed Notes of the value of Rs. 28,600, which he contended were his accumulated savings. His explanation was accepted in respect of Rs. 15,000, because 15 notes could be traced to a bank, but was rejected in respect of the balance. The Patna High Court pointed out that if an assessee received an amount in the year of account, it was for him to show that the amount so received did not bear the character of income, and the tax-payer in the case had failed to prove this fact in respect of the remaining notes. The Hon'ble Supreme Court has held that The cases involving the encashment of high denomination notes are quite numerous. In some of them the explanation tendered by the tax-payer has been accepted and in some it has been rejected. Where the assessee was unable to prove that in his normal business or otherwise, he was possessed of so much cash, it was held that the assessee started under a cloud and must dispel that cloud to the reasonable satisfaction of the assessing authorities, and that if he did not, then, the Department was free to reject his explanation and to hold that the amount represented income from some undisclosed source.

In the light of above facts and discussion at point no.- (i) to (xii) and by considering the statement of Om Prakash Sahu recorded on Oath in front of the Assessing officer and by placing reliance on the Judgments of Supreme Court and High court, the stand taken by

Assessing officer is found to be correct. It appears that, the issue involved here may also be pertaining to the Benami Transactions (Pro.) Act, 1988 and if deemed fit it may be referred to the authority concerned accordingly. Moreover, the appellant assessee is not willing to co-operate with this Appellate authority and not coming clean and similar behaviour of the appellant assessee is seen at the time of Assessment proceedings before the AO. Consequently, the addition of Rs 15,78,773/-made by the Assessing officer invoking section 68 of the Income-tax Act, 1961 is found to be correct and thus UPHELD. The ground no.-1 to 4 of the appellant are not allowed.

The ground no.-5 is general and hence not adjudicated upon.

In the result, the appeal is NOT ALLOWED.”

**8.** Assessee being aggrieved by the order of the CIT(A) has carried the matter in appeal before us.

**9.** We have heard the learned authorized representatives of both the parties, perused the orders passed by the lower authorities and the material available on record.

**10.** Shri Amit Malu Jain, learned Authorized Representative (for short, Id. AR) for the assessee at the threshold submitted that the CIT(A) had grossly erred in all and facts of the case while disposing of the appeal based on his perverse observations. Elaborating further on his contention, Id. AR submitted that though the assessee in the course of proceedings before the first appellate authority had uploaded his written submissions and also raised an additional ground of appeal but the latter had grossly erred in not considering the same. Carrying his contention further, Id. AR submitted that the CIT(A) had wrongly observed that no written submissions had been filed by the assessee in the course of proceedings before him. The Id. AR to

fortify his aforesaid contention has taken us through the observations of the CIT(A) at Page 8-Para xii of his order. The Id. AR to fortify his claim that written submissions were filed in the course of the proceedings before the first appellate authority had drawn our attention to the relevant documents on record; (i) Notice issued u/s 250 of the Act issued by the CIT(A), NFAC directing the assessee to submit his written submission on or before 19.04.2024 Page Nos. 24-27 of APB; (ii) a copy of e-proceeding response along with letter raising additional ground of appeal filed by the assessee before CIT(A) on 17.04.2024 Page Nos. 28-29 of the APB; (iii) a copy of written submissions filed before CIT(A), dated 18.04.2024 along with a copy of e-proceeding acknowledgment dated 18.04.2024 generated by the income tax department Page Nos. 1-11/30-31 of the APB.

**11.** Ld. AR submitted that as the CIT(A) had grossly erred in law and in the facts of the case in not only failing to consider the written submissions that were filed by the assessee, but also had not dealt with the additional ground of appeal which was raised before him, therefore, the order passed by him cannot be sustained and is liable to be set aside.

**12.** Per contra, Dr. Priyanka Patel, learned Senior Departmental Representative (for short, Id. Sr. DR) fairly admitted the aforesaid factual position. At the same time, Id. Sr. DR relied upon the orders of the Id. Lower authorities.

**13.** We have thoughtfully considered the contentions advanced by the learned authorized representatives of both the parties in the backdrop of the orders of the lower authorities.

**14.** Admittedly, it is a matter of fact apparent from record that the assessee in the course of the proceedings before the CIT(A) had uploaded his written submissions on 18.04.2024 Page No. 32 of the APB. Also, we find that the assessee had raised an additional ground of the appeal on 17.04.2024 before the first appellate authority Page Nos. 28-29 of the APB. As stated by Mr. Amit Malu Jain, Id. AR, it is a matter of fact that the CIT(A) had failed to consider the written submissions filed by the assessee and also deal with the additional ground of appeal that was raised by him.

**15.** Considering the aforesaid facts, which have not been rebutted by the Id. Sr. DR, we are of the considered view that the order passed by the CIT(A) suffers from a serious infirmity which clearly smacks of the violation of the basic principle of natural justice and, thus, cannot be approved on our part. Accordingly, in all fairness, we restore the matter to the file of the CIT(A) with a direction to re-adjudicate the matter after affording a reasonable opportunity of being heard to the assessee. Needless to say, the assessee shall in the course of set aside proceedings remain at a liberty to substantiate his claim based on fresh documentary evidences, if any.

**16. Ground of appeal No. 1** raised by the assessee is **allowed** for statistical purpose.

**17.** As we have restored the matter to the file of CIT(A) for fresh adjudication, therefore, we refrain from adjudicating **Grounds of appeal Nos. 2 to 5**, which, thus, are left open.

**18. Ground of appeal No. 8** being general in nature is dismissed as not pressed.

**19.** In ITA 361/RPR/2024 for AY 2014-15 the facts and issues involved in the captioned appeal remains same as were there before us in ITA No. 360/RPR/2024 for AY 2013-14, therefore, our order passed in ITA No. 360/RPR/2024 shall apply for the purpose of disposing of the captioned appeal.

**20.** Resultantly, the appeal is allowed for statistical purposes in terms of our aforesaid observations.

**21.** In result, both the appeals filed by the assessee being ITA Nos. 360 and 361/RPR/2024 for AY 2013-14 and AY 2014-15 are allowed for statistical purposes in terms of our aforesaid observations.

**22.** Before parting, we may herein observe that the CIT(A) is directed to decide the appeal afresh and deal all the grounds of appeal as well as the additional ground of appeal that was raised by the assessee.

Order pronounced in open court on 2<sup>nd</sup> day of September, 2024.

**Sd/-**  
**ARUN KHODPIA**  
**(ACCOUNTANT MEMBER)**

**Sd/-**  
**RAVISH SOOD**  
**(JUDICIAL MEMBER)**

रायपुर/ RAIPUR ; दिनांक / Dated : 2<sup>nd</sup> September, 2024.

\*Hem

**आदेश की प्रतिलिपि अग्रहित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. The Pr. CIT, Raipur-1 (C.G)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,  
रायपुर / DR, ITAT, Raipur Bench, Raipur.
6. गार्ड फ़ाइल / Guard File

आदेशानुसार / BY ORDER,

//True Copy//

निजी सचिव / Private Secretary

आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.