

आयकर अपीलीय अधिकरण
गुवाहाटी पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH AT KOLKATA**

[वर्चुअल कोर्ट]
[Virtual Court]

श्री मनमोहन दास, न्यायिक सदस्य
एवं

श्री संजय अवस्थी, लेखा सदस्य
के समक्ष

Before
**SRI MANOMOHAN DAS, JUDICIAL MEMBER
&
SRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No.: 133/GTY/2023
Assessment Year: 2018-19**

**Chandra Mondal.....Appellant
[PAN: BAGPM 9546 N]**

Vs.

**ITO, North Lakhimpur.....Respondent
Appearances:**

Assessee represented by: Anil Kumar Agarwala, FCA.

Department represented by: Sanjay Jha, JCIT.

Date of concluding the hearing : July 3rd, 2024

Date of pronouncing the order : August 29th, 2024

ORDER

Per Sanjay Awasthi, Accountant Member:

In this case return of income was filed on 27.12.2018 and thereafter revised on 29.12.2018, declaring a return to income of Rs. 5,66,150/-. It is seen from the records that the case was selected for scrutiny for examining high-value cash deposits. It is seen that there is a pointed query letter issued u/s 142(1) of the Income Tax Act, 1961 (in short the 'Act') which was not responded to by the assessee as a result of which the Assessing Officer (hereinafter referred to as ld. 'AO') carried out verification at his own level and came to the conclusion leading to the impugned addition as under:

“On verification of insight portal it reveals that the assessee during the relevant assessment year deposited cash in bank account to the extent of Rs.8,80,63,410/-. As mentioned earlier the assessee had income from business & profession only Rs. 1,85,128/- which under any circumstances cannot meet the fund of cash deposit to the tune of Rs.8,80,63,410/-. The source of cash deposit remains unexplained since neither any accounts are maintained nor anywhere in the ITR such cash deposits reflected. The assessee was apprised of the entire fact and was asked to explain the source of fund as enumerated in the show cause notice. In spite of opportunities afforded nothing could be furnished to substantiate the source of fund while he has very poultry income during the relevant financial year. It is pertinent to mention here that in earlier year also he had no such cash balance to make deposit in bank during the relevant financial year. It is therefore, clear from the entire scenario that this is nothing but assessee’s unaccounted/undisclosed money deposited in cash in bank account. Due to non compliance on the part of the assessee the utilisation of the said money could not be examined. Be as it may, since the entire cash deposit in bank amounting to Rs.8,80,63,410/- as reflected in the Insight portal (in place of Rs.8,98,08,510/- as mentioned in the show cause notice inadvertently) remained unexplained and more particularly, having no nexus with the earnings of the assessee it is treated as unaccounted and unexplained money invested in bank account and added to the total income u/s.69C of the IT Act, 1961. Penalty proceedings u/s 270A of the IT Act, 1961 has been initiated for underreporting of income which is in consequence of misreporting thereof. Penalty proceedings u/s 271AAC(1) of the IT Act, 1961 is also initiated separately.”

1.1. The matter was taken to the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Id. 'CIT(A)'] where again due to non-persuasion the appellate proceedings were not attended to and the impugned amount of Rs. 8,80,63,410/- added u/s 69A of the Act was sustained. It is noteworthy that Id. CIT(A) went through the evidence already on record and since there was no contrary evidence to persuade him to take a view in favour of the assessee, he is seen to have sustained the addition.

2. Aggrieved with the action of Id. CIT(A) the assessee is before us through the following grounds of appeal:

“1. For that the Learned Commissioner of Income Tax (Appeals) erred in law as well as on facts in dismissing the appeal in limine without adjudicating on the Grounds of Appeal taken up by the appellant.

2. For that the Learned CIT(A) erred in failing to decide the appeal on merits, and thereby upholding the wrongful action of the Assessing Officer of additions made u/s 69A on account of unexplained investment.

3. For that the appellant urges leave to add to, modify or delete any ground of appeal, before or at the time of hearing of the appeal.”

2.1. Before us, the ld. A/R averred that due to the remoteness of location and relative lack of understanding about taxation matters the issue which could have been easily resolved at the level of ld. AO could not be handled properly and therefore, he requested for appropriate orders so that the appellant gets a chance to establish his case, in his favour, by demonstrating before the ld. AO about the *bona fides* of his claim.

2.2. Ld. D/R supported the orders passed by the authorities below.

3. We have considered the averments of both the ld. A/R and the ld. D/R and also gone through the orders of ld. CIT(A) as well as the AO. We find that due to poor persuasion by the assessee before the authorities below he could not establish the genuineness of the deposits seen in his bank account. We feel that in the interest of substantive justice, the appellant deserves a chance to present his case before the ld. AO. Accordingly, we remand back this matter to the file of the ld. AO for adjudication on merit.

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

Order pronounced on 29th August, 2024 under Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-

[Manomohan Das]
Judicial Member

Dated: 29.08.2024

Bidhan (P.S.)

Sd/-

[Sanjay Awasthi]
Accountant Member

Copy of the order forwarded to:

1. **Chandra Mondal, Akashdeep Complex, Ganga Village, R.K. Mission S.O., Itanagar, Arunachal Pradesh, 791113.**
2. **ITO, North Lakhimpur.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Guwahati Bench, Guwahati.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata