

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND  
SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **979/Chny/2024**  
निर्धारण वर्ष / Assessment Year: 2017-18

Tajinder Singh Kataria,  
Old No. 14, New no. 12,  
Muthuram Street,  
Chennai – 600 004.

Income tax Officer,  
v. Non Corporate Ward -1(7),  
Chennai.

**[PAN: ADFPT-9937-R]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. N. Arjunraj, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Smt. R. Anita, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 20.08.2024

घोषणा की तारीख/Date of Pronouncement

: 20.09.2024

**आदेश / O R D E R**

**PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2017-18, vide order dated 15.02.2024.

2. The assessee has raised the following grounds of appeal:

"1. The order of the NFAC, Delhi dated 15.02.2024 vide DIN & Order No. ITBA/NFAC/S/250/2023-24/1060969905(1) for the

*above mentioned Assessment Year is contrary to law, fact and in circumstances of the case.*

*2. The NFAC, Delhi erred in partly sustaining the addition of **Rs.16,14,142**/being 8% of total credits in the bank account of the appellant as income of the appellant in the computation of taxable total income without assigning proper reasons and justification.*

*3. The NFAC, Delhi failed to appreciate that the quantification of the income of the appellant at 8% of the credits reflecting in the bank account was arbitrary and wholly unjustified and further ought to have appreciated that having not carried out any comparative analysis with that of the immediately preceding and succeeding assessment years, the mechanical action in adopting the rate at 8% of the total credits reflecting in the bank account should accordingly be reckoned as nullity in law.*

*4. The NFAC, Delhi failed to appreciate that in any event, the disputed sum erroneously added back was not related to the appellant here in nor relatable to the business run by the appellant, there by vitiating the disputed addition made in its entirety.*

*5. The NFAC, Delhi failed to appreciate that the order under consideration was passed out of time, invalid, passed without jurisdiction and not sustainable both on facts and in law.*

*6. The NFAC, Delhi failed to appreciate that there was no effective/proper opportunity given before passing the impugned order including non granting of personal hearing and any order passed in violation of the principles of natural justice is nullity in law.*

*7. The Appellant craves leave to file additional grounds/arguments at the time of hearing."*

3. The brief facts of the case are that, the assessee is an individual filed his return of income on 29.07.2017, declaring a total income of Rs.2,65,790/-. The case was selected for limited scrutiny for the reason that large value of import shown

in the export data and non-business or presumptive business return is filed. The Assessing Officer framed the assessment u/s. 143(3) of the Act on 04.12.2019 by estimating income of the assessee at 8% amounting to Rs.31,36,732/- of the total credits in the bank accounts i.e., Rs.3,92,09,156/-, after reducing income of Rs.2,65,790/-. Aggrieved by the order of the Assessing Officer, the assessee preferred an appeal before the Id.CIT(A). The appeal was dismissed by the Id.CIT(A) without condoning the delay in filing the appeal of the assessee. The assessee challenged the same before this Tribunal and the Tribunal has directed the Id.CIT(A) to give an opportunity to the assessee to furnish his explanation in support of his appeal and remitted back the file to the Id.CIT(A).

4. The Id.CIT(A), after giving an opportunity and considering the submissions of the assessee, reduced the total credits of the bank at Rs.2,34,99,156/- as contended by the assessee and confirmed the estimation of net profit at 8% only by holding as under:

*"7.6 The ITS information available in the case of the appellant has been perused. As per this information, 15 transactions of import, for a total invoice value of Rs.2,01,82,654/- and assessable value of Rs.2,12,65,127/- were done in the name of an entity called Kataria & Sons'. This is the name appearing in the Kotak Mahindra Bank account no. 9611959134, which the appellant has*

admitted as his own bank account. Further, debit entries in the bank account show outward remittances like a withdrawal of Rs.11,72,546.28/- on 11.8.2016 with the narration 'AIR-0464AIR16045169-Yongkong Xinshidai Industry Co', withdrawal on 7.10.2016 of Rs.17,78,298.11/- with the narration Direct remittance 0464DIR16034499', withdrawal of Rs.24,91,472.39 on 3.11.2016 with the narration 'Bill Retirement 0464MBC 16027277 and so on. The appellant has clearly entered into imports and the ITS information is correct. It is seen that against the aforesaid withdrawals from the Kotak Mahindra Bank, there are regular deposits with narration like credit entry of Rs.12,00,000/- on 11.8.2016 with the narration 'RTGS Krishna Enterprises', RTGS deposit of Rs 6,00,000/- on 5.10.2016 from 'Karaikal Exim' and so on. The appellant has clearly entered into trading transactions involving imported items, but no business income has been disclosed in the return. In the absence of any details in this regard, the AO has correctly estimated business income @8% of the deposits in the bank accounts of the appellant. As per AO, total deposits in Kotak Mahindra bank account stood at Rs. 3,78,69,000/- The appellant has contended that the correct figure of credits is Rs.2,21,59,000/- This contention is found correct. Thus, the correct total of the credits in the two bank accounts is Rs. 2,34,99,156/-.

7.7 As regards the rate to be adopted, the AO has applied net profit rate of 8%. The appellant has stated that a reasonable profit rate of 1-2% may be adopted. The appellant has not explained the nature of transactions entered into, which resulted in the credits in the bank accounts. The appellant has not stated the kind of business he had entered into and even stated that the flagged information on AST is not correct. No books of accounts have been maintained. In such a scenario, there is no option but to uphold the estimation of net profit @8%, which is the percentage prescribed as per the provisions of section 44AD. The business income is therefore estimated at Rs.18,79,932/-, being 8% of the total credits in the bank accounts of Rs.2,34,99,156/- Since the appellant has already disclosed income of Rs.2,65,790/- in the return, the addition works out to Rs.16,14,142/- (1879932 less 265790). The addition of Rs.28,70,942/- is, therefore, reduced to Rs.16,14,142/- and the appellant gets a relief of Rs.12,56,800/- Thus, grounds 1 and 2 are partly allowed."

Aggrieved by the order of the Id.CIT(A), the assessee is before us.

5. The Id.AR stated that the Id.CIT(A) has erred in confirming the estimated profit at 8% of total credits in the bank account in the impugned order without assigning any proper reasons and justification. The Id.AR contended that the Assessing Officer and that of the Id.CIT(A) have erred in estimating the net profit at 8% without carrying out any comparative analysis with that of the immediately preceding and succeeding assessment years, by making mechanical action in adoption of the estimate on the total credits reflecting in the bank account. In support of the claim of the assessee, the Id.AR submitted the details of return of income filed from assessment years 2015-16 to 2023-24 in paper book consisting of page nos. 1 to 9. Further, the Id.AR filed a chart showing the income declared by the assessee during the above said assessment years as below:

<i>Sl.No</i>	<i>AY</i>	<i>Date of filing return of income</i>	<i>Taxable Total income</i>
1.	2015-16	30.03.2017 725299770300317	2,27,500
2.	2016-17	26.03.2018 501810810260318	2,36,200
3.	2017-18	29.07.2017 966365610290717	2,65,790
4.	2018-19	26.07.2018 920286680260718	2,88,650
5.	2019-20	20.05.2020 339416130200520	2,27,500
6.	2020-21	02.09.2020	3,17,500

		514165050020920	
7.	2021-22	26.10.2021 736167990261021	3,49,250
8.	2022-23	22.07.2022 928504010220722	2,93,420
9.	2023-24	22.07.2023 607736910220723	3,83,319

In light of the above, the Id.AR prayed for estimating the net profit @2% by setting aside the impugned order of the Id.CIT(A).

6. Per contra, the Id.Sr.DR, stated that since the assessee has not filed any details of expenditure during the proceedings before the lower authorities, the action of the Id.CIT(A) needs to be confirmed and prayed for dismissing the appeal of the assessee.

7. We have heard the rival contentions and perused the materials and orders of the authorities below. Admittedly, the assessee has filed his return of income by declaring an income of Rs. 2,65,790/- and carried on the business of importing the goods and trading with a marginal profit. The assessee filed the details of profits earned and declared from the assessment years 2015-16 to 2023-24 from the business and prayed for

estimating the profit at 2% of the total credits of the bank account. We noted that historically the assessee has declared total income between Rs.2 lakhs to Rs.4 lakhs per annum and regularly filed return of income from the assessment years 2015-16 to 2023-24 and hence, we deem it appropriate that the net profit estimate @ 4% of the bank credits of Rs.2,34,99,156/- which works out to Rs.9,39,966/-. We direct the Assessing Officer accordingly to recompute the income of the assessee. Thus, we allow the grounds of appeal of the assessee.

8. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the court on 20<sup>th</sup> September, 2024 at Chennai.

**Sd/-**  
**(महावीर सिंह )**  
**(MAHAVIR SINGH)**  
उपाध्यक्ष /**Vice President**

**Sd/-**  
**(एस. आर. रघुनाथा)**  
**(S. R. RAGHUNATHA)**  
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 20<sup>th</sup> September, 2024

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT - Chennai
4. विभागीय प्रतिनिधि/DR

5. गार्ड फाईल/GF