



**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH "B", LUCKNOW**

**BEFORE SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER
AND SHRI SUBHASH MALGURIA, JUDICIAL MEMBER**

ITA No.359/LKW/2024
(Assessment Year: 2016-17)

&

SA. No. 12/LKW/2024
(Arising out of ITA. No.359/LKW/2024
(Assessment Year: 2016-17)

Shujat Saif 40/26, Qazi Tola, Old City, S.O. Bareilly, Bareilly-243005.	v.	Income Tax Officer, ITO- 2(2) Aaykar Bhawan, CR Building, Kamla Nehru Marg, Civil Lines, Bareilly- 243001.
PAN:FQIPS6012K		
(Appellant)		(Respondent)

Appellant by:	Shri. Avneesh Awasthi, Adv		
Respondent by:	Shri. Sunil Kumar Rajwanshi, Addl. CIT(DR)		
Date of hearing:	23	09	2024
Date of pronouncement:	30	09	2024

ORDER

PER SUBHASH MALGURIA, J.M.:

The present appeal as well as the stay application has been filed by the assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals) [hereinafter "the Ld. CIT(A)"/NFAC u/s 250 of the Income Tax Act, 1961 (hereinafter "the Act") dated 06/05/2024 for the assessment year 2016-17 wherein, the assessee's appeal has been dismissed in limine for the reason of non compliance.

2. The grounds of appeal of the assessee are as under: -

1. That the order passed by the Ld. AO and upheld by Ld. CIT(A)/NFAC under section 250 of the Act is a vitiated order, the Ld. CIT(A)/NFAC

has erred in both facts and law, for affirming the additions under section 69 and 69A of the Act of Rs.81,94,710/- against which the Tax demand was raised u/s 156 of the Act for Rs.69,88,661/-.

2.That the Ld. CIT(A)/NFAC has erred for ignoring the fact that the provisions of section 69 & 69A of the Act cannot be applied, where no books of accounts were maintained.

3. That the Ld. CIT(A)/NFAC has erred for rejecting the claim of the appellant regarding the STRIDHAN accumulated over a period of 31 years post-marriage on without appreciating the facts submitted by the Appellant before the Ld. CIT(A)/NFAC.

4. That the Ld. CIT(A)/NFAC has failed to consider the facts of the case, the grounds of appeal raised, and the additional evidence submitted by the appellant during the course of submission while passing the order.

5. That the Ld. CIT(A)/NFAC has erred to affirm the additions of Rs.48,51,700/- made by the Ld. AO u/s 69A of the Act towards alleged unexplained cash deposits in the bank account without appreciating the facts of appellant that this is deposited out of STRIDHAN.

6. That the Ld. CIT(A)/NFAC erred in making the additions of Rs.33,43,010/- under section 69 of the Act for the purchase of property without appreciating the fact that the property was exchanged and the additional amount was paid by the appellant.

7. That on the facts and circumstances of the case and in law, the Ld.CIT(A)/NFAC erred in rejecting the fact that during the transaction of sale and purchase of the property was exchanged and the balance amount was paid by the appellant.

8. That on the facts and circumstances of the case and in law, the Ld.CIT(A)/NFAC erred by not providing the opportunity for a hearing through video conferencing as requested during the first appellate proceedings. Hence, the Ld. CIT(A)/NFAC has violates the Principle of Natural Justice.”

3. In this case, vide assessment order dated 17/02/2024 was passed u/s 147 r.w.s 144B of the Act wherein the assessee's total income was assessed at Rs.81,94,710/-. The assessee did not file any return of income. The assessee filed appeal against the aforesaid assessment order in the office of the Ld. CIT(A). Vide impugned appellate order dated 06/05/2024, the assessee's appeal was dismissed. The present appeal has been filed by the assessee against the aforesaid impugned appellate order dated 06/05/2024 of the Ld. CIT(A).

4. At the time of hearing before us, the Assessee was represented by Shri Avneesh Awasthi, Advocate, and Revenue was represented by Shri Sunil Kumar Rajwanshi, Ld. Sr. Departmental Representative. The Ld. Counsel for the Assessee submitted that the assessee is a widow and a mother of three daughters. Further, submitted that the Assessing Officer as well as the Ld. CIT(A) passed their respective orders without providing reasonable opportunity to the assessee. He submitted that the issue in dispute regarding various additions should be restored back to the file of the Assessing Officer with a direction to pass denovo assessment order in accordance with law. The Ld. Sr. Departmental Representative expressed no objection to this.

5. In view of the foregoing, and as representatives of both sides are in agreement with this, in the specific facts and circumstances of the present case before us; we set aside the order of the assessment order dated 17/02/2024 of the assessing officer and we restore the issue in dispute regarding the additions to the file of the AO with a direction to pass denovo assessment order after providing reasonable opportunity to the assessee. All grounds of appeal are treated as disposed of in accordance with the aforesaid direction.

Stay Application No. 12/LKW/2024

6. Since we have already disposed of the aforesaid appeal of the assessee vide ITA. No.359/LKW/2024, the Stay Application filed by the assessee vide S.A. No. 12/LKW/2024 has become infructuous. Accordingly, the stay application is dismissed being infructuous.

7. In the result, the appeal of the assessee is allowed for statistical purposes and the stay application filed by the assessee is dismissed.

Order pronounced in the open Court on 30/09/2024.

Sd/-
[ANADEE NATH MISSHRA]
ACCOUNTANT MEMBER

Sd/-
[SUBHASH MALGURIA]
JUDICIAL MEMBER

DATED: 30/09/2024

Vijay Pal Singh, (Sr. PS)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR
5. Guard file

//True Copy//

By order

Assistant Registrar