



**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC BENCH, LUCKNOW**

BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No.452/LKW/2024
Assessment Year: 2017-18

Mohammad Firoz Maharani Ganj Gonda	v.	The Income Tax Officer Gonda - New
TAN/PAN:AAQPF6166J		
(Appellant)		(Respondent)

Appellant by:	Shri A. P. Sinha, Advocate		
Respondent by:	Shri Sanjeev Krishna Sharma, D.R.		
Date of hearing:	18	09	2024
Date of pronouncement:	30	09	2024

ORDER

This appeal has been preferred by the assessee against the order dated 11.06.2024, passed by the Addl/JCIT(A)-2, Guwahati for Assessment Year 2011-12.

2. The brief facts of the case are that from the (Individual Transaction Statement) ITS details, the Department found that the assessee, a trader of Electronic Goods, had deposited a sum of Rs.13,59,500/- in its bank account No.202711100000177 maintained with Andhra Bank, Malviya Nagar, Gonda. Since the assessee did not file the return of income for the year under consideration, the Assessing Officer issued notice dated 23.03.2018 under section 142(1) of the Income Tax Act, 1961

(hereinafter called 'the Act') requiring the assessee to file the return of income on or before 31.03.2018, but the assessee failed to file the return of income. Thereafter, the Assessing Officer issued notice dated 25.04.2019 under section 133(6) of the Act to the Branch Manager, Andhra Bank, Malviya Nagar, Gonda, requiring him to furnish the copy of bank account statement relating to the assessee's bank account for the period 01.04.2016 to 31.03.2017. After receiving the bank statement relating to the assessee's bank account from the Bank, the Assessing Officer issued show cause notice dated 30.04.2019 to the assessee for passing best judgment assessment under section 144 of the Act along with notice under section 142(1) of the Act. In response to the show-cause notice, the assessee filed a Certificate of Registration and Allotment of TIN Certificate along with bank account statement and Tax Audit Report. After considering the same, the Assessing Officer observed that assessee had a total credit/turnover of Rs.1,99,98,435/- from his business in the year under consideration. He, after invoking the provisions of section 44AD of the Act, added net profit of 8% on the total turnover of Rs.1,99,98,435/- i.e. Rs.15,99,874/- to the total income of the assessee. The Assessing Officer also initiated penalty

proceedings under section 271B of the Act and passed under section 144 of the Act.

3. Aggrieved, the assessee preferred appeal before the ld. First Appellate Authority. The NFAC under the e-Appeals Scheme, transferred the case to Addl/JCIT(A)-2, Guwahati, who dismissed the appeal of the assessee by passing an order ex-parte qua the assessee.

4. Now, the assessee has approached this Tribunal challenging the order of the Addl/JCIT(A)-2, Guwahati, by raising the following grounds of appeal:

- 1. In the facts and circumstances of the case and in law the Ld. Addl. Commissioner of Income Tax Appeals-2 Guwahati has erred in confirming the action of the Ld. A.O. while not confirming the addition of Rs.1599874.*
- 2. In the facts and circumstances of the case and in law the Ld. Addl. Commissioner of Income Tax Appeals-2 Guwahati has erred while not considering the audit report of the appellant.*
- 3. In the facts and circumstances of the case and in law the Ld. Addl. Commissioner of Income Tax Appeals-2 Guwahati has erred while not giving adequate opportunity. In the facts and circumstances of the case and in law the Ld. Addl. Commissioner of Income Tax*

Appeals-2 Guwahati has erred while initiating various penalties.

5. The ld. authorized representative for the assessee prayed that the appeal may be restored to the Office of the Assessing Officer, as the Assessing Officer will be in a better position to examine the various evidences which the assessee would like to bring on record.

6. The ld. D.R. had no objection to the restoration of appeal as requested by the ld. A.R.

7. I have heard both the parties and have also perused the material on record. Looking into the facts of this case, I am of the considered view that the assessee deserves one more opportunity to present his case and, therefore, in the interest of substantial justice, I restore this file to the Office of the Assessing Officer with the direction to provide one more opportunity to the assessee to present his case along with necessary evidences and I also caution the assessee to fully comply with the directions of the Assessing Officer in the set-aside proceedings when called upon to do so, failing which, the Assessing Officer shall be at complete liberty to pass the order in accordance with law, based on the material available on record even if it is ex-parte qua the assessee.

8. In the result, the appeal of the assessee stands allowed for statistical purposes.

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

Sd/-
[SUDHANSHU SRIVASTAVA]
JUDICIAL MEMBER

DATED:30/09/2024

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

By order
Assistant Registrar