

आयकर अपीलिय अधिकरण
दिल्ली पीठ "एसएमसी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आअसं.900/दिल्ली/2024 (नि.व. 2017-18)

ITA No.900/DEL/2024 (A.Y.2017-18)

Shiv Kumar,
H.No. 313/21, OLD Housing Board Colony,
Rohtak, Haryana 124001
PAN: EDGPK-2501-F

..... अपीलार्थी/Appellant

बनाम Vs.

Income Tax Officer, Ward (4),
Rohtak, Haryana

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Ms. Sanju Kumari, Advocate
प्रतिवादीद्वारा/ Respondent by : Shri Sanjay Kumar , Sr. DR
सुनवाई की तिथि/ Date of hearing : 01/10/2024
घोषणा की तिथि/ Date of pronouncement: : 01/10/2024

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as 'the CIT(A)') dated 06.02.2024, for assessment year 2017-18.

2. Ms. Sanju Kumari, appearing on behalf of the assessee submits that the CIT(A) has dismissed appeal of the assessee at the outset on the ground that the assessee has failed to fulfill condition of payment of advanced tax in accordance with the provisions of section 249(4)(b) of the Income Tax Act, 1961 (hereinafter

referred to as 'the Act'). She stated that the assessee did not file return of income as income of the assessee during the relevant period was much below the threshold limit. She stated that the gross total income of the assessee including income under business head and interest from savings was Rs.1,47,030/-. Therefore, no advance tax was liable to be paid by the assessee. An addition of Rs.10,30,000/- was made by the Assessing Officer (AO), on account of cash deposits in the bank account during demonetization period from 12.11.2016 to 13.12.2016. During assessment proceedings the assessee made submissions before the AO, however the Assessing Officer completed assessment u/s. 144 of the Act.

4. Shri Sanjay Kumar representing the department vehemently defending the impugned order submitted that the assessee did not comply with the mandatory conditions of section 249(4)(b) of the Act, hence, the CIT(A) had no option but to reject appeal of the assessee.

5. Both sides heard, order of the authorities below examined. The solitary addition made by AO in the hands of assessee is of Rs.10,30,000/- u/s. 69A of the Act. The assessee had allegedly deposited Rs.12,30,000/- in his bank account. The AO granted relief of Rs. 2,00,000/- and made addition of the remaining amount. Admittedly no return of income was filed by the assessee during the impugned assessment year. During assessment the assessee/appellant did furnish some reply before the AO but the AO found it to be unsubstantiating the plea of assessee and completed the assessment u/s. 144 of the Act. The Id. Counsel for the assessee has contended that the assessee would be able to substantiate the

source of cash deposits if an opportunity is allowed. Considering the facts of case, I deem it appropriate to restore the issue in appeal to AO for fresh consideration. The AO is directed to make fresh assessment after considering submissions of the assessee, in accordance with law.

6. The assessee upon service of notice shall respond to the same, without fail.

7. In the result, impugned order is *set aside*, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Tuesday the 01st day of October, 2024.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली/Delhi, दिनांक/Dated 01/10/2024

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI