

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH, AHMEDABAD**

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER  
&  
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.266/Ahd/2022  
(Assessment Year: 2017-18)

Govindbhai Sanabhai Rathva, Sihod, Sukal Pavi Jetpur, Vadodara, Gujarat – 391 160.	Vs.	Income Tax Officer, Ward – 3(1)(4), Vadodara.
<b>[PAN - AXBPR 3708 G]</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	None
<b>Respondent by:</b>	Shri Rignesh Das, Sr. DR

<b>Date of Hearing</b>	01.10.2024
<b>Date of Pronouncement</b>	12.11.2024

ORDER

**PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:**

This appeal is filed by the assessee against the order dated 30.04.2022 passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi, for the Assessment Year 2017-18.

2. The Assessee has taken the following grounds of appeal:-

1. *The order passed by the Ld. CIT(A) is against law, equity & justice.*
2. *The Ld. CIT(A) has erred in law and on facts in dismissing appeal for want of prosecution and order passed without discussing issue.*
3. *The Ld. CIT(A) has erred in law and on facts in upholding the addition under Section 69A of the Act of Rs.58,41,270/-.*

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4. *The Ld. CIT(A) has erred in law and on facts in upholding the addition under Section 115BBE of the Act when transactions are occurred prior to insertion of provision on statute.*
5. *The appellant craves liberty to add, amends, alter or modify all or any grounds of appeal before final appeal.”*

3. The brief facts of the case are that during the course of assessment proceedings, upon examining the bank statements of the assessee's accounts with Kotak Mahindra Bank (account numbers 9211902110 and 0311762147), the Assessing Officer observed that there were cash deposits amounting to Rs. 36,48,000 and credit entries totalling Rs. 21,93,269 on various dates throughout the Financial Year (F.Y.) 2016-17, in the bank accounts held by the assessee. The Assessing Officer sent multiple notices to the assessee to provide an explanation for these transactions. A formal show cause notice dated 04.11.2019 was issued, asking the assessee to clarify why, in the absence of any justifiable explanation, the combined amount of Rs. 58,41,269 (Rs. 36,48,000 in cash deposits and Rs. 21,93,269 in credit entries) should not be treated as unexplained income for Assessment Year (A.Y.) 2017-18. The Assessing Officer observed that despite repeated reminders, the assessee has neither submitted any documentary evidence nor filed a return of income for A.Y. 2017-18. In light of the available information and independent inquiries, the Assessing Officer was of the view the cash deposits of Rs. 36,48,000 appear unexplained. The assessee was again requested to submit valid proof or documents supporting the generation of these funds, failing which the Assessing Officer proposed to add Rs. 58,41,269 (the sum of cash deposits and credit entries) to the total income of the assessee for A.Y. 2017-18 under section 69A of the Income-tax Act, 1961, which stipulates stipulates that if an assessee is found to possess money or valuable assets that are not recorded in their books and fails to satisfactorily explain the nature and source, the value of such assets may be deemed income

for that financial year. Finally, the Assessing Officer held that given the lack of response and failure to furnish any supporting evidence, despite sufficient opportunity having been provided, the assessee failed to respond. Accordingly, the total amount of Rs. 58,41,269 deposited across the two bank accounts was therefore considered unexplained and attributable to the assessee as his income under section 69A of the Act. Accordingly, a sum of Rs. 58,41,269 was added to the assessee's income for A.Y. 2017-18.

4. In appeal before Ld. CIT(Appeals), none appeared on behalf of the assessee. Ld. CIT(Appeals) observed that during the appellate proceedings, the assessee was provided multiple opportunities to explain the source of the deposits and credit entries. However, the assessee failed to comply with the proceedings and did not provide any explanation or supporting evidence to challenge the AO's findings. Ld. CIT(Appeals) was of the view that the assessee failed to discharge the onus placed upon him by the statute to explain the source of the deposits, and no material facts were brought forward to rebut the findings of the AO. Ld. CIT(Appeals) referred to the decision of *Chuharmal vs. Commissioner of Income-tax* (1988) 38 Taxman 190 (SC), where the Supreme Court held that section 69A covers unexplained money, bullion, jewelry, or other valuable articles, and such items are deemed to be income if the assessee fails to provide a satisfactory explanation regarding their source. The Supreme Court in this case held that in cases where the source of income cannot be explained, the income from those sources is deemed to be taxable under section 69A. Additionally, the case of *Smt. Srilekha Banerjee and Others vs. CIT, Bihar and Orissa* (1964) AIR 697, the Supreme Court held that the burden of proof lies with the assessee to explain the source of money, and if the explanation is unsatisfactory, the Department is justified in treating it as income from

undisclosed sources. Further, the case of *CIT, West Bengal-II vs. Durga Prasad More* (82 ITR 540) was also referred to, in which the Court observed that the taxing authorities are entitled to examine the surrounding circumstances and apply the test of human probabilities to determine the veracity of an explanation. Accordingly, Ld. CIT(Appeals) held that despite being provided ample opportunities, the assessee failed to explain the nature and source of the cash deposits and credit entries amounting to Rs.58,41,269/-. Therefore, Ld. CIT(Appeals) confirmed the addition of the said amount to the assessee's income under section 69A of the Act, and the appeal was dismissed in its entirety.

5. Before us, none appeared on behalf of the assessee to represent the case, despite several opportunities of hearing give to the assessee. In the case of **Adim Jati Seva Sahkari Samiti Maryadit v. ITO 159 taxmann.com 8 (Raipur - Trib.)**, the ITAT made the following observations:

*19. Apropos, the claim of the Ld. A.R. that the matter in all fairness be restored to the file of the A.O. for fresh adjudication, the same does not favor us. As observed by us herein above, the grounds based on which the order of the CIT (Appeals) has been assailed before us are devoid and bereft of any merit; therefore, the appeal is liable to be dismissed on the said count itself. Apart from that, we are of a firm conviction that the right vested with an appellant to approach the tribunal by preferring an appeal before it is for a limited purpose, i.e. a grievance that the assessment framed by the AO, or for that matter, order of the CIT(Appeal) were not according to law. In no case can the Tribunal be taken as a forum for an appellant who, as per his volition, had either adopted an evasive or lackadaisical approach before the lower authorities and not participated in the assessment or appellate proceedings to come up with its case for the first time before the Tribunal and, as a matter of right seek restoring of the impugned order to the file of the lower authorities for fresh adjudication.*

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20. Considering the facts mentioned above, finding no infirmity in the view taken by the lower authorities who had rightly made/sustained the addition of 2,47,65,369/-, we uphold the same.

21. In the result, the assessee's appeal is dismissed in terms of our observations above.

Again, in the case of **Chiranji Lal Bairwa v. ITO in ITA No.404/JP/2023**, the ITAT made the following observations, while dealing with a similar issue

5. Succinctly, the fact as culled out from the records is that notice u/s 148 was issued on 30.03.2017 after obtaining prior approval of Pr.CIT-3, Jaipur since there was an information with the Department that assessee had sold land vide Khasra No. 1091/954 during FY 2009-10 for Rs.5,00,000/- within the municipal limits of Jaipur city. The value of this land under section 50C of the IT Act, 1961 is Rs.8,36,375/-. Notice u/s 142(1) was issued on 11.08.2017 and served for compliance on 24.08.2017. There was no compliance by assessee to this notice u/s 142(1) and subsequent notices u/s 142(1) and final opportunity/show cause notice u/s 142(1) dated 11.09.2017 for compliance on 25.09.2017. Assessment u/s 147/144 was completed ex-parte on 21.12.2017 at total income of Rs.8,31,375/-. Against this order, appeal was filed before Ld. CIT(Appels)-3, Jaipur on 27.01.2018 who decided the appeal ex-parte on 19.12.2018 due to total non-compliance by assessee. Against this order assessee moved ITAT, Jaipur Bench, wherein the bench vide order in ITA No.206/JP/2019 dated 06.03.2020 set aside the issue to the file of ld. CIT(Appels) for fresh adjudication. 6. Thus, the bench noted that the assessee was given the chance to represent the case before ld. CIT(A) and even though there were three notices given after set aside of the proceedings by the Bench to the assessee. Three instances of the notices are given in span of 10 months and the assessee did file any submission in support of the grounds raised in the appeal before the ld. CIT(A). Therefore, the ld. CIT(A) has passed a detailed order, mentioning the details of 3 notices issued to the assessee as reproduced here in below :

.....

Therefore, in support of the fact that the assessee remained noncompliant in the earlier round of litigation. One more chance was given by the Bench vide order dated 06.03.2020 on which the assessee in support of given three occasions did not appear and file the requisite submission

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*before ld. CIT(A). Therefore, it appears that the assessee is not interested in pursuing his case on merits. Before us also while filing the appeal, the assessee did not file any document in support of the claim that why the addition of Rs. 8,31,375/- is not sustainable and it is sale of property and is capital assets and receipt thereof is not chargeable to tax in full. Based on these observations, the appeal of the assessee stands dismissed. In the result, the appeal of the assessee is dismissed.*

6. Accordingly, in view of the above judicial precedents and the fact that the assessee has all throughout remained evasive and non-compliant, we are of the considered view that Ld. CIT(Appeals) has correctly upheld the order of the Assessing Officer. Accordingly, we find no infirmity in the order of Ld. CIT(Appeals) so as to call for interference.

7. In the result, the appeal of the assessee is dismissed.

**This Order pronounced in Open Court on 12/11/2024**

*Sd/-*  
**(ANNAPURNA GUPTA)**  
**ACCOUNTANT MEMBER**

*Sd/-*  
**(SIDDHARTHA NAUTIYAL)**  
**JUDICIAL MEMBER**

Ahmedabad; Dated 12/11/2024  
Manish, Sr. PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद/ ITAT, Ahmedabad