



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

BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No.622/LKW/2024
Assessment Year: 2014-15

Arshad Mahmood Khan Flat No.500, Windsor Court-III 93H, Dalibagh Ganna Sansthan Lucknow	v.	ITO-2(1) Lucknow
TAN/PAN:AJPK0388G		
(Appellant)		(Respondent)

Appellant by:	Shri Arshad Mahmood Khan (Assessee)		
Respondent by:	Shri Sanjeev Krishna Sharma, D.R.		
Date of hearing:	12	11	2024
Date of pronouncement:	14	11	2024

ORDER

This appeal has been preferred by the assessee against the order dated 19.08.2024, passed by the Id. Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi for Assessment Year 2014-15.

2. The brief facts of the case are that the assessee had not filed the return of income for the year under consideration. The Income Tax Department had received information that the assessee had made high value transaction during the year under consideration and that there were credit entries of Rs.31,14,885/- in the assessee's bank account No.26231930000676 and of Rs.15,49,850/- in bank account

No.07231930000218 with HDFC Bank. Accordingly, the case of the assessee was reopened under section 147 of the Income Tax Act, 1961 (hereinafter called "the Act") after issuing notice under section 148 of the Act. Since no return of income had been filed by the assessee in response to the said notice, the AO issued notice under section 142(1) of the Act, requiring the assessee to furnish details/information for finalizing the assessment in connection with the issue involved in the assessee's case. However, the assessee did not respond to the notices issued by the AO. The AO finally completed the assessment under section 147 read with sections 144 and 144B of the Act, assessing the total income of the assessee at Rs.46,64,735/-.

3. The AO also initiated penalty proceedings under section 274 r.w.s. 271(1)(c) of the Act.

4. Aggrieved, the assessee preferred an appeal before the NFAC, who dismissed the appeal of the assessee by passing an order ex-parte qua the assessee.

5. Now, the Assessee has approached this Tribunal challenging the action of the AO as well as the NFAC by raising the following grounds of appeal:

i. Addition made by AO is seems to be arbitrary and against the circumstance & merit of the case.

ii. *The AO's order under Section 144 was passed without providing the appellant with adequate opportunity to present their case. This procedural violation affects the validity of the assessment.*

That the Learned Assessing Officer erred in facts and legal aspects of the case in making addition of Rs.46,64,375/- u/s 69(A) of the Income Tax Act.

iv. *The CIT(A) dismissed the appeal primarily on grounds of non-compliance, without considering the merits of the case. The appellant faced genuine difficulties in compliance, which were not adequately addressed. Dismissing the appeal on such grounds is unjust and warrants reconsideration.*

v. *The addition has resulted in an undue tax burden on the appellant, which does not reflect the actual income. This assessment approach is unfair and leads to significant financial hardship.*

vi. *That the appellant seeks permission to modify and/or add any other ground or grounds of appeal as the circumstances of the case might require or justify.*

vii. *In light of the above grounds, the appellant requests the ITAT to quash the addition made under Section 69A, set aside the order passed under Section 144, and reconsider the appeal from the CIT(A) on its merits.*

6. The assessee appeared in person and submitted before me that the order passed by the NFAC is an ex-parte order, and

that since no one could represent the assessee before the NFAC, the required submissions could not be made before the NFAC. He prayed that in the interest of justice, the appeal may be restored to the file of the NFAC for deciding the matter on merits, after providing reasonable opportunity of hearing to the assessee.

7. Since the order passed by the NFAC was an ex-parte order, the ld. Senior D.R. had no objection to the restoration of appeal to the NFAC.

8. I have heard both the parties and have also perused the material on record. It is evident that there was complete non-compliance on the part of the Assessee during the course of assessment as well as first appellate proceedings. However, looking into the facts of this case and also considering the request made by the assessee, 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 NFAC with the direction to hear the appeal on merits. I also caution the Assessee to fully comply with the notices and directions of the NFAC in the set-aside proceedings when called upon to do so, failing which, the NFAC shall be at complete liberty to pass the order in accordance with law, based

on material available on record even if it is ex-parte qua the assessee.

9. In the result, the appeal of the Assessee stands allowed for statistical purposes.

Order pronounced in the open Court on 14/11/2024.

Sd/-
[SUDHANSHU SRIVASTAVA]
JUDICIAL MEMBER

DATED:14/11/2024

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR

By order

Assistant Registrar