

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**NAGPUR BENCH, NAGPUR**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER**

**SMC MATTER**

**ITA no.329/Nag./2024**  
**(Assessment Year : 2013-14)**

Sultan Singh, Jammu and Kashmir  
Bri Kamila, Gurah Salathia  
Jammu (Jammu & Kashmir) 181 143  
PAN – BCIPS1056D

..... Appellant

v/s

Income Tax Officer  
Ward-3(1), Nagpur

..... Respondent

Assessee by : None  
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 07/11/2024

Date of Order – 18/11/2024

**ORDER**

The present appeal has been filed by the assessee challenging the impugned order dated 15/03/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [“learned CIT(A)”], for the assessment year 2013-14.

2. In its appeal, the assessee has raised following grounds:-

*"1) On the facts and circumstances of the case, the Ld. CIT(A) vide order u/s 250(6) dated 15.03.2024 has erred in confirming the addition to the tune of Rs. 1105000/- by the learned AO on account of unexplained cash deposits in Jammu & Kashmir Bank account No. 0640040100000144, in Samba Branch, Jammu & Kashmir.*

*(2) That the CIT(A) has erred in confirming addition made by the AO particularly in view of the fact that the assessment proceedings were*

*initiated vide notice u/s 148 which was never served on the registered email id of the assessee. That the assessment completed u/s 147 without service of proper notice is bad in law.*

*(3) That the CIT(A) has erred in confirming addition made by the AO particularly in view of the fact that the assessment proceedings were initiated vide notice u/s 148 which was issued by non-jurisdictional AO, Nagpur in spite of the fact that the address mentioned on the notice u/s 148 was of Uttar Pradesh.*

*(4) That the CIT(A) has erred in confirming addition made by the AO ignoring the fact that the approving authority u/s 151 was not of jurisdictional CIT.*

*(5) That the addition confirmed by the CIT(A) is bad in law as the reopening has been made merely on the basis of certain information available with the department. That the CIT(A) has failed to appreciate that the bank account relied upon by the AO also caters the address as mentioned on the PAN card and as such, the proceedings completed without receiving the jurisdictional notice are bad in law.*

*(6) That the CIT(A) has dismissed the appeal by applying the dictum of VIGILANTIBUS NON DORIMENTIBUS JURA SUBVENIUNT' without disposing off the legal grounds and without adjudicating the grounds on merits.*

*(7) That the CIT(A) has erred in confirming the addition of Rs. 1105000/- without analyzing the nature of credits in the bank account and by not providing the benefit of cash withdrawals made from the same bank account against the cash deposits.*

*(8) That the Ld. CIT(A) has erred in confirming the addition of Rs. 1105000/- made by the AO u/s 68 without appreciating that the assessee was not maintaining books of accounts. That the CIT(A) has failed to appreciate that the provisions of Section 68 cannot be invoked in the absence of books of accounts.*

*(9) That the Ld. CIT(A) has erred in confirming the addition of Rs. 1105000/- made by the AO u/s 68 without appreciating that bank account cannot be regarded as books of accounts of the assessee.*

*(10) That the appellant craves leave to add or amend the grounds of appeal before the appeal is heard and disposed off."*

3. Before me, when the case was called for hearing, none appeared on behalf of the assessee. There is no application seeking adjournment either. Under these circumstances, I am of the view that the assessee's appeal can be disposed off in the absence of the appellant-assessee. Accordingly, I

proceed to dispose off these appeals ex-parte, qua the appellant–assessee and after hearing the learned Departmental Representative and on the basis of material available on record.

4. The short facts of the case are, the assessee did not file his return of income for the year under consideration. The Assessing Officer re–opened the case of the assessee and fresh assessment on the basis of information available on record before the Assessing Officer. During the year, the Assessing Officer noticed that assessee deposited cash to the tune of ₹ 11,05,000, with Jammu & Kashmir Bank Ltd. Accordingly, notice under section 148 of the Income Tax Act, 1961 ("*the Act*") along with other notices were issued during the course of assessment proceedings and the assessment was completed under section 147 r/w section 144B on 16/09/2021, by making an addition of ₹ 11,05,000, treating the same as unexplained cash credit under section 68 of the Act. The assessee being aggrieved, filed appeal before the first appellate authority.

5. Before the learned CIT(A), the assessee did not appear which resulted in issuance of ex–parte order by dismissing the appeal of the assessee without going on to the merits of the case.

6. Before us, none appeared on behalf of the assessee.

7. The learned Departmental Representative supported the order passed by the authorities below.

8. Having considered the submissions of the learned Departmental Representative and on a perusal of the material available on record, I find that the assessee is working in Army. During his posting in the State of Jammu & Kashmir, the assessee deposited some money in his bank account. It appears to me that the Assessing Officer issued notices, however, by that time, the assessee was transferred. I find that the Assessing Officer, without making any enquiry, simply made addition which was confirmed by the learned CIT(A). After considering the entire facts and circumstances of the case, the tax effect involved in this appeal comes to around ₹ 3 lakh. The assessee being an person working in Army and was transferred elsewhere, the shifting of the assessee was not known to the Assessing Officer or the learned CIT(A). Thus, under these facts and circumstances of the case and in the interest of natural justice, I am of the opinion that the addition made by the Assessing Officer which was confirmed by the learned CIT(A) were not justified. Consequently, the impugned order passed by the learned CIT(A) is hereby set aside and allow the grounds raised by the assessee.

9. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open Court on 18/11/2024

**NAGPUR, DATED: 18/11/2024**

**Sd/-  
V. DURGA RAO  
JUDICIAL MEMBER**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

*Pradeep J. Chowdhury  
Sr. Private Secretary*

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur