

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI
BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 577/Del/2024
(Assessment Year: 2017-18)**

Somdutt Sharma, H. No. 429, Adarsh Nagar, Modingar, Ghaziabad (Appellant) PAN:GEIPS6647H	Vs. ITO, Ward-2(2)(1), Ghaziabad (Respondent)
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Assessee by :	Shri Shantanu Kanungo, Adv
Revenue by:	Shri Mritunjay Prasad Dwivedi, Sr. DR
Date of Hearing	22/10/2024
Date of pronouncement	14/11/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.577/Del/2024 for AY 2017-18, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. NFAC', in short] in Appeal No. ITBA/NFAC/S/250/2023-24/1058077489(1) dated 20.11.2023 against the order of assessment passed u/s 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 11.12.2019 by the Assessing Officer, ITO, Ward-2(2)(1), Ghaziabad (hereinafter referred to as 'Id. AO').

2. Though the assessee had raised several grounds of appeal before us, the only effective issue to be decided is as to whether the Id NFAC was justified in confirming the addition made in the sum of Rs 71,77,800/- as unexplained investment u/s 69 of the Act being the cash

and credit entries reflected in the bank accounts of the assessee, in the facts and circumstances of the instant case.

3. We have heard the rival submissions and perused the materials available on record. The Assessee is an individual engaged in the business of trading of mobile and its accessories under the name and style of Mrs. Vaishnavi Communication, Shop No. 78, near Ginni Modi College, Modi Nagar- 201204, Ghaziabad. The Assessee under the PAN AUGPS1055F had filed his income tax return on 31-10-2017 for the assessment year 2017-18 along with the audited financial statements having turnover of Rs.1,78,45,644/- declaring taxable income of Rs 4,70,981/-. The proprietorship concern M/s. Vaishnavi Communication is duly registered with VAT department Uttar Pradesh having TIN 09991002403. The products were sold to the customers which attracted tax under the UP VAT Act 2007. The Assessee had duly filed periodical VAT returns and annual returns under the UP VAT Act 2007 and CST Act 1956.

4. The Learned AO observed that there was a cash deposit of Rs. 11,92,000/- made in the bank account of the assessee and further there were credits of Rs. 59,85,800/- made in the bank account of the assessee. The Learned AO sought explanation for the source of those deposits made in the bank account. A show cost notice stood issued by the Learned AO to the assessee in the PAN GEIPS 6647H to explain the source of cash deposits and credit entries in the bank account totaling to Rs. 71,77,800. Since, no explanation was offered by the assessee, the Learned AO proceeded to make an addition of Rs. 71,77,800/- as unexplained investment under section 69 read with section 115BBE of the Act. Accordingly, an assessment order stood passed in the hands of the assessee for assessment year 2017-18 in PAN GEIPS6647H. This

action of the Learned AO was upheld by the Learned NFAC vide its order dated 20-11-23. Aggrieved, the assessee is in appeal before us.

5. It is not in dispute that assessee was allotted two PANs - i.e. AUGPS1055F which is used for filing income tax return by the assessee and carrying on his business and the other PAN namely GEIPS6647H is being used by the department for issuing notice to the assessee and framing the assessment and appellate orders thereon. In the instant case, the assessee was trying to explain before us through the authorized representative that the cash and credit entries made in the bank account of the assessee were already considered in the audited financial statements of the assessee of the proprietary concern M/s Vaishnavi Communication under the PAN AUGPS1055F and that the same need not be again considered in another PAN GEIPS6647H. This aspect was not appreciated by the learned assessing officer and accordingly an addition has been made unwarrantedly. Considering the totality of the facts and circumstances of the case, we deem it fit and appropriate to restore this appeal to the file of learned AO for de novo adjudication in accordance with law. The assessee is hereby directed to surrender one PAN before the department. The learned AO after having taken cognizance of the fact of cancellation of one PAN should make an assessment after duly considering all the evidences submitted by the assessee with regard to the source of cash and cheque deposits made in the bank account. Needless to mention that the assessee be given reasonable opportunity of being heard. The assessee is also given liberty to furnish fresh evidences, if any, in support of his contentions. With these directions, the grounds raised by the assessee are allowed for statistical purposes.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

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

-Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 14/11/2024
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi