



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

BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No.57/LKW/2024
Assessment Year: 2017-18

Kamal Deep Singh C/o Sanjay Saxena 12, Pratap Enclave Bisrat, G.T. Road Shahjahanpur	v.	The ITO-1(4) Shahjahanpur
TAN/PAN:BIZPS6787C		
(Appellant)		(Respondent)

Appellant by:	Shri Sanjay Saxena, C.A.		
Respondent by:	Shri Sanjeev Krishna Sharma, D.R.		
Date of hearing:	13	11	2024
Date of pronouncement:	19	11	2024

ORDER

This appeal has been preferred by the assessee against the order dated 12.12.2023, passed by the Id. Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi for Assessment Year 2017-18.

2. The brief facts of the case are that the assessee is an individual and is carrying on the business of trading of Solar Panels, etc., and is also engaged in medical profession. The assessee had filed his return of income for the year under consideration on 20.12.2017, declaring a total income of Rs.6,27,010/-. The case of the assessee was selected for complete scrutiny under CASS for the reason that the assessee

had deposited cash in his bank accounts during the demonetization period. The Assessing Officer (AO) issued statutory notices along with a questionnaire. The assessee participated in the proceedings before the AO and based on the submissions made on behalf of the assessee and after considering the material on record, the AO completed the assessment under section 143(3) of the Act, computing the income of the assessee as under:

Income as per ROI	: Rs.06,27,010.00
Unexplained money u/s.69 of the Act	: Rs.35,40,500.00
Under-reported income from undisclosed sales	: <u>Rs.01,12,157.00</u>
Total Income	: <u>Rs.42,79,667.00</u>

3. Aggrieved, the assessee preferred an appeal before the NFAC, who partly allowed the appeal of the assessee by passing an order ex-parte qua the assessee.

4. 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:

1. The Id. CIT(Appeals) erred on facts and in law in adding Rs.28,92,500/- u/s 69A of the Income Tax Act, 1961 which is contrary to the facts and circumstances of the case.

2. The Id. CIT(Appeals) erred on facts and in law in applying the provision the provision of Section 69A of the Income Tax Act, 1961 are not applicable in the case of the appellant as its application is bad in law as per facts and circumstances of the case as the appellant had already shown these cash deposit as at his own.

3. The Id. CIT(Appeals) erred on facts and in law in applying provisions of Section 115BBE on the Income of Rs.28,92,500/- as per facts of the case.

4. The Id. CIT(Appeals) erred on facts and in law in charging interest u/s 234B of the Income Tax Act, 1961.

5. That the assessment order had been passed without considering all the facts and due proper opportunity being violation of principles of natural justice and is liable to be cancelled.

6. The appellant reserves a right to add/alter/amend any ground of appeal at the time of its hearing.

5. During the course of hearing before me, the Ld. Authorized Representative for the assessee (Ld. A.R.) filed an application dated 13.11.2024, which was received by the Registry of this Office on 13.11.2024, under Rule 29 of the Income Tax Appellate Tribunal Rules, 1963 for admission of fresh evidence. The submission of the Ld. A.R. was that this is nothing else, but Reconciliation of Bank Statement, which could not be produced before the AO at the time of assessment proceedings. He prayed

that if an opportunity is given, the same will be duly explained before the AO. For the sake of convenience, the reconciliation statement is reproduced hereunder:

F

Reconciliation Statement of Total Credits in the Bank Accounts:

Sr. No.	Particulars	Amount
1.	<u>Total credits in the Axis Bank Account No. 909010036962613:</u>	6,76,720/-
2.	<u>Total credits in the Punjab and Sind Bank Account No. 05731300001657:</u> 93,25,107/-	86,74,067/-
	Less: Contra Entry arisen due to cancellation of transaction on 21-07-2016 24,320/-	
	Less: Contra Entry arisen due to cancellation of transaction on 26-07-2016 37,120/-	
	Less: Contra Entry arisen due to cancellation of transaction on 27-02-2016 1,59,600/-	
	Less: Contra Entry arisen due to cancellation of transaction on 07-03-2016 1,59,600/-	
	Less: Contra Entry arisen due to cancellation of transaction on 07-03-2016 62,400/-	
	Less: Contra Entry arisen due to cancellation of transaction on 31-03-2016 <u>2,08,000/-</u>	
	Actual Credits in the bank account: 86,74,067/-	
3.	<u>Total credits in the Punjab and Sind Bank Account No. 05731200000867:</u>	80,000/-
4.	<u>Total credits in the Punjab and Sind Bank Account No. 05731000009886:</u> 17,03,686/-	6,30,686/-
	Less: Cash deposit of his wife out of her personal saving on 16-11-2017 1,00,000/-	
	Less: Vehicle Loan disbursement credit transaction on 17-01-2017 8,00,000/-	
	Less: Transfer from own bank account no. <u>05731300001657</u> on 17-01-2017 1,15,000/-	
	Less: Transfer from own bank account no. <u>05731300001657</u> on 03-03-2017 <u>58,000/-</u>	
	Actual Credits in the bank account: 6,30,686/-	
5.	<u>Total credits in the Punjab and Sind Bank Account No. 05731600000516:</u> 11,99,386/-	11,69,386/-
	Less: Transfer from own bank account no. <u>05731300001657</u> on 09-01-2017 <u>30,000/-</u>	
	Actual Credits in the bank account: 11,69,386/-	
6.	<u>Total credits in the Punjab and Sind Bank Account No. 05731200000335:</u> 4,50,000/-	4,00,000/-
	Less: Transfer from own bank account no. <u>05731600000516</u> on 06-08-2016 <u>50,000/-</u>	
	Actual Credits in the bank account: 4,00,000/-	
	<u>Correct Credits in all the Banks (1+2+3+4+5+6)=</u>	1,16,30,859/-

Statement of Receipts Shown in the Return of Income:

Sr. No.	Particulars	Amount
1.	Gross Receipts u/s 44AD as per CIT(A) order: (84,92,008)+(14,02,341/-)	98,94,349/-
2.	Gross Receipts From Profession of Doctor u/s 44ADA:	1,50,000/-
3.	Gross Receipts From Rental Income:	48,000/-
4.	Gross Receipts From Sale of Plot:	2,00,000/-
5.	Net Income from Sale of Agriculture Produce: Gross Receipts 18,00,000/- Less: Expenses Incurred 7,00,000/- Net Income 11,00,000/-	18,00,000/-
6.	Interest from Saving Bank Account	8,625/-
7.	Interest Subvention Subsidy (From Kisan Credit Card Credited in the Bank)	8,866/-
8.	Balance Credits in the bank out of Past savings of himself and family (As per SOP of the CBDT Instruction 3/2017 in F No. 225/100/2017/ITA-II dated 21-02-2017. The Id. CIT(Appeal) allowed adhoc relief of cash deposit of Rs. 2,50,000/- in CIT (A) order)	2,50,000/-
	Total Receipts (1 to 8)=	1,23,59,840/-

6. The Ld. Sr. D.R. had no objection to the admission of the additional evidences.

7. Having gone through the additional evidences filed before me, I am of the view that these evidences go to the very root of the matter and are germane to proper determination/assessment in the case of the Assessee. Accordingly, I admit the same.

8. The Ld. Sr. D.R. had no objection to the restoration of appeal to the Office of the AO, as requested by the ld. A.R.

9. I have heard both the parties and have also perused the material on record. Looking into the facts of this case, 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 AO with

the direction to provide one more opportunity to the assessee to present his case along with necessary evidences. I have already admitted the additional evidences filed by the Assessee in the form of Reconciliation of Bank Statement, under Rule 29 of the I.T.A.T. Rules. The Assessee shall produce them before the AO during the course of set aside proceedings. I also caution the assessee to fully comply with the directions of the AO in the set-aside proceedings when called upon to do so, failing which, the AO shall be at complete liberty to pass the order in accordance with law, based on the material available on record even if it is ex-parte qua the assessee.

10. In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open Court on 19/11/2024.

Sd/-
[SUDHANSHU SRIVASTAVA]
JUDICIAL MEMBER

DATED:19/11/2024

JJ:

Copy forwarded to:

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

By order

Assistant Registrar