

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'E': NEW DELHI**

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT

AND

SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER

**ITA No.2633/Del/2023
[Assessment Year: 2012-13]**

Sh. Naresh Kumar, S/o-Sh. Ved Pal, Village-Gokulpur, Bhiwani, Haryana-127028 PAN-AAJPP6823J	Vs	ITO, Ward-1, SCO No.222, Huda Bhiwani Complex, City Centre, Bhiwani, Haryana-127021
Assessee		Revenue

Assessee by	Sh. Saurabh Jindal, CA
Revenue by	Sh. Gireesh Kumar Kohli, Sr. DR

Date of Hearing	14.11.2024
Date of Pronouncement	14.11.2024

ORDER

PER BRAJESH KUMAR SINGH, AM,

This appeal filed by the assessee is directed against the order dated 25.07.2023 of the National Faceless Appeal Centre (NFAC)/Ld. Commissioner of Income Tax (Appeals), Delhi, relating to Assessment Year 2012-13.

2. The grounds of appeal raised by the assessee are as under:-

“1. That the assessment has been initiated on the basis of information of higher authority without applying the mind and therefore the assessment proceeding is against Law.

2. That the notice under section 148 of the Income Tax Act was not served on the assessee in accordance with law and the assessment made consequent thereto is able to be quashed. That proceeding taken by the ITO without notice or in pursuance of an invalid notice would be illegal and void.

3. That the learned ITO erred in law and on the facts in treating all the bank deposit of Rs. 1509000.00 as income

which is contrary to the logic and principle and the resultant addition made is thus unsustainable.

4. That the Ld ITO has erred in law and against natural justice in making the addition without issuing a show cause notice and giving adequate opportunity of being heard to the assessee.”

3. Brief facts of the case:- The assessment in this case was completed u/s 144/147 of the Income Tax Act, 1961 (hereinafter ‘the Act’) on 14.12.2019 at a total income of Rs.15,09,000/-. The AO had reopened the assessment on the basis of information received that the assessee had deposited an amount of Rs.15,09,000/- in cash in his savings bank account maintained with PNB during Finance Year 2011-12. Further, the Id. CIT(A) also dismissed the appeal for non-prosecution by the assessee.

4. During the course of hearing, the Id. AR submitted that due to ignorance, the assessee did not appear before the either the AO or the Ld. CIT(A) and requested that the matter may be set-aside to the file of the AO for making its submissions regarding its claim that the assessee had deposited the said amount out of sale of agricultural land situated at Fauga, Jalpan Tahsil Sardarsahar. It was further submitted that the AO made the addition without issuing a show cause notice as required under the provisions of section 144 of the Act.

5. We have heard both the parties and perused the material available on record. In this case, the assessee did not appear during the proceedings before the lower authorities but is now ready to submit the necessary documents before the AO in support of his claim. Further, the assessment u/s 144 of the Act was passed without issuing a show-cause notice to the assessee. Therefore, considering the facts of this case and in

order to subserve the interests of justice and to provide an opportunity to the assessee to effectively represent his case, the order of learned CIT(A) is set aside and the matter is restored to the file of AO for framing of assessment de-novo after providing reasonable opportunity of being heard to the assessee. Grounds are allowed for statistical purposes.

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

Order pronounced in the open court on 14th November, 2024.

Sd/-
[MAHAVIR SINGH]
VICE PRESIDENT

Sd/-
[BRAJESH KUMAR SINGH]
ACCOUNTANT MEMBER

Dated 14.11.2024.

Shekhar

Copy forwarded to:

1. Assessee
2. Respondent
3. PCIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi,