

IN THE INCOME TAX APPELLATE TRIBUNAL

"F" BENCH, MUMBAI

BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No. 5365/MUM/2024

(Assessment Year : 2018-19)

Sheena Singh,

B/303 Mayfair Marvel, Ahimsa Marg,
Chincholi Bunder Road, Malad West,
Mumbai, Dely S.O. – 400064,
Maharashtra
PAN: BAKPS1701F

..... Appellant

v/s

ITO, Ward – 41(3)(4)

Mumbai

..... Respondent

Assessee by : Shri R.B. Papat

Revenue by : Ms. Rajeshwari Menon, Sr.DR

Date of Hearing – 27/11/2024

Date of Order - 29/11/2024

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The assessee has filed the present appeal against the impugned order dated 25/09/2024, passed under section 250 of the Income Tax Act, 1960 (*"the Act"*) by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [*"learned CIT(A)"*], for the assessment year 2018-19.

2. In this appeal, the assessee has raised the following grounds: –

"1. That the Ld. CIT Appeal erred in sustaining addition of Rs.80,00,000/- under Section 69 of ITA, on technical ground by rejecting additional evidences produced

before him, thereby denying justice and fair play for determining real income of your appellant, hence needs to be deleted by admitting all the additional evidences which goes to the root of the matter now placed before your honour under Rule 29 of the ITAT Rules, 1963, along with an application u/r 29 of ITAT Rules, for substantial cause namely granting justice and to have fair play for determining real income of your appellant and also to comply with the mandate of Section 69 for allowing assessee to offer an explanation thereafter pass the order on merit.

2. That the Ld. CIT(A) erred and not obliged in not admitting additional evidences which were filed before him and rejected your appellants appeal on technical ground, by ignoring clear mandate provided to him under the ITA by the parliament vide section 250/251 r.w.r 46A(4).

3. That the Hon'ble Tribunal is requested to admit additional evidence under Rule 29 of the Income Tax (Appellate Tribunal) Rules, 1963 for substantial cause, namely to grant justice and to have fair play for determining tax on real income of your appellant, and direct either Ld. AO or The Ld. Commissioner Appeals to pass order on merit afresh after affording reasonable opportunity to your appellant of being heard to deliver natural justice.

4. Levy of interest u/s. 234A/B/C&D of the Act is justified.

5. Initiation of penalty proceedings under Section by Ld. AO is unjustified."

3. We have considered the submissions of both sides and perused the material available on record. The brief facts of the case are that the assessee is an individual and for the year under consideration filed her return of income on 30/08/2018 declaring a total income of INR 3,00,590. The return filed by the assessee was selected for complete scrutiny and statutory notices under section 143(2) and section 142(1) of the Act were issued and served on the assessee. In connection with the complete scrutiny proceedings, the assessee was requested vide letter dated 27/01/2021, 11/02/2021, 19/02/2021 and 01/03/2021 to upload certain details. However, the assessee did not reply to the notices calling for the details and the assessment was completed under section 144 of the Act based on the details available on record. The Assessing Officer ("AO") vide order dated 31/03/2021 passed under section 144 r/w section 143(3A) and section 143(3B) of the Act made an addition under section 69 of the Act in respect of the time deposit of INR 80 lakh made by the assessee in her bank account in absence of any documentary evidence to

prove the nature and source of the deposit. Further, the AO also made an addition amounting to INR 6,57,000 under section 56(2)(x) of the Act on account of the difference in the stamp authority value and the registered value in the absence of any proper explanation from the assessee.

4. The learned CIT(A), vide impugned order, granted partial relief to the assessee and deleted the addition of INR 6,57,000 made under section 56(2)(x) of the Act. As regards the addition of INR 80 lakh made under section 69 of the Act, the assessee submitted various details before the learned CIT(A) as additional evidence explaining the source of the time deposit made in the bank account. However, the learned CIT(A) rejected the request for admission of additional evidence on the basis that the assessee has furnished the additional evidence without any accompanying petition making out a case under any of the four limbs of Rule 46A(1) of the Income Tax Rules, 1962 (*"the Rules"*). Accordingly, in the absence of requisite documentary evidence, the learned CIT(A) held that the contention of the assessee remained unverified and unproved solely due to the conduct and laches on the part of the assessee. Being aggrieved, the assessee is in appeal before us.

5. During the hearing, the learned AR submitted that due to some technical glitches on the ITBA portal, the assessee could not upload the documents and her reply during the assessment proceedings. By referring to the affidavit of the Chartered Accountant, forming part of the paper book from pages 48-50, the learned AR submitted that such glitches continued on the ITBA portal from the date of issuance of notice on 30/01/2021 till the date of passing of the assessment order and only due to this technical difficulty, the assessee could

not reply to the notices issued during the assessment proceedings and filed the details as called for.

6. Therefore, having considered the aforesaid submission of the assessee, which is duly supported by the affidavit of the Chartered Accountant, we are of the considered view that the assessee was prevented by sufficient cause from producing the evidence which was called upon during the assessment proceedings and thus the application of the assessee for admission of additional evidence should have been admitted by the learned CIT(A) under Rule 46A of the Rules. Accordingly, in the facts and circumstances of the present case, as noted above, we deem it appropriate to restore the issue pertaining to the addition made under section 69 of the Act to the file of the learned CIT(A) for *de novo* adjudication on merits after admission and consideration of the additional evidence filed by the assessee. Needless to mention no order shall be passed without affording reasonable opportunity of hearing to the parties. Further, the assessee is directed to appear before the learned CIT(A) on all the dates of hearing as may be fixed without any default. Accordingly, grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on /11/2024

Sd/-

OM PRAKASH KANT
ACCOUNTANT MEMBER
MUMBAI, DATED: 29/11/2024
Prabhat

Sd/-

SANDEEP SINGH KARHAIL
JUDICIAL MEMBER

Copy of the order forwarded to:

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

By Order

Assistant Registrar
ITAT, Mumbai