

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, AHMEDABAD**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMEBR**

I.T.A. No. 984/Ahd/2024
(Assessment Year: 2017-18)

Kanak Pramukhlal Sandesara 45, Rajsukh Building, Opp. Gujarat Vidyapith, Ashram Road, Ahmedabad, Gujarat, 380001	Vs.	ITO Ward 1(2)(2), Ahmedabad
[PAN No.AEAPS1539N]		
(Appellant)	..	(Respondent)

Appellant by :	Assessee (Adjournment application filed)
Respondent by:	Ms. Ketaki Desai, Sr. D.R.
Date of Hearing	03.12.2024
Date of Pronouncement	06.12.2024

ORDER

PER SIDDHARTHA NAUTIYAL, JM:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 20.03.2024 passed for the Assessment Year 2017-18.

2. The assessee has raised the following grounds of appeal:-

- “1. The CIT(A) erred in law and in the facts of the case in confirming the order of the AO in making addition of Rs. 70,95,553/- u/s 69A of the act.
2. The CIT(A) erred in law and in the facts of the case in confirming the order of the AO without jurisdiction u/s 144 of the act.
3. The CIT(A) erred in law and in the facts of the case in confirming the order of the AO in not serving notice of hearing to the appellant.”

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3. In the present case, the assessee filed an application for adjournment on vague grounds stating that he is unable to represent the case as he is out of India for a substantial longer period and would require time to appoint an authorized representative. However, we observe that when the hearing was scheduled on 2nd September, 2024, none had appeared on behalf of the assessee, the matter got subsequently adjourned for 1st October the 28th October, 2024 and finally when the matter was scheduled for 3rd December, 2024 the assessee has filed a vague application requesting for further adjournment. We observe that the assessee remained non-compliant all throughout the assessment proceedings wherein the AO was forced to pass an ex-parte assessment order u/s.144 of the Income Tax Act (in short ‘the Act’) in absence of any cooperation/appearance on the part of the assessee, despite multiple notices of hearings. Further, in appeal before the Ld. CIT(A), it is observed that the Ld. CIT(A) had also issued several notices of hearing on 15.02.2024, 22.02.2024 & 06.03.2024, in response to which, the assessee filed no written submission and remained non-compliant. Accordingly, in absence of any compliance on the part of the assessee, the Ld. CIT(A) confirmed the assessment order. Before us, it is evident that the assessee is not interested in causing appearance and even till date the assessee has not even bothered to appoint an authorized representative to represent his case. The assessee has filed the present adjournment application giving vague reasons stating that he is yet to appoint an Authorized Representative. Therefore, in light of the consistent non-compliance by the assessee, we are not inclined to grant any further adjournment to the assessee who has all throughout remained non-compliant. In the result, adjournment application filed by the assessee is rejected.

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4. On merits, the AO observed that the assessee had deposited cash of Rs.10,71,000/- in his bank account during demonetization in old currency. The AO observed that the assessee had not filed its return of income for A.Y. 2017-18 as well. The AO issued several notices of hearing to the assessee dated 09.03.2018, 13.06.2019, 06.09.2019 and 13.11.2019 requiring the assessee to provide certain information in connection with cash deposits made during demonetization period. However, there was no compliance on the part of the assessee in response to various notices issued. Accordingly, the AO was of the view that the source of cash deposits remained unexplained and hence, the same were liable to be added as income of the assessee u/s.69A of the Act. Further, the AO observed that in addition to the above, there were credit entries appearing in the bank account of the assessee amounting to Rs.60,24,553/-, the source of which, is remained unexplained. This was also in light of the fact that the assessee had not filed its return of income and had failed to give any explanation about the nature and source of cash deposits and the credits appearing in his bank account. Accordingly, the AO proceeded to make addition of the aforesaid amount as income of the assessee u/s.69A of the Act and taxed the same u/s.115BBE @ 60%.

5. In appeal, the Ld. CIT(A) issued several notices of hearing to the assessee, but the assessee failed to respond to any of the notices issued by the Ld. CIT(A). Accordingly, the Ld. CIT(A) confirmed the additions made by the AO with the following observations:

“7.6 In the present case it is seen that there was no compliance to any of the multiple notices issued to the assessee as listed in Table 2 of the Assessment order. Hence no satisfactory explanation was provided by the assessee during the assessment proceedings regarding the cash deposits and other credits appearing in

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the bank account. In spite of having substantial financial transactions, the assessee had not filed a return of income for the year under consideration. Furthermore, even in the present appellate proceedings there has not been any compliance to any of the notices issued on 22.02.2021, 15.02.2024, 06.03.2024. The contentions of the appellant raised in the statement of facts or the grounds of appeal are not backed by any documentary evidence and hence do not merit acceptance. It is for the appellant to submit a detailed explanation along with proper evidence to support the grounds of appeal and to contradict the findings of the A.O in the assessment order, which he has failed to do. No evidence has been submitted to prove the genuineness and source of the cash deposits made in the bank account as well the other credit entries.. Accordingly. I am left with no option but to conclude that the appellant has failed to discharge the burden of proof cast u/s 69A of the Act. Accordingly, the addition is upheld and the Grounds of Appeal are Not Allowed.”

6. Before us, as noted above, again the assessee has not caused appearance and evidently till date, has not even appointed any authorized representative to represent his case.

7. We observe that during the appellate proceedings, the assessee has remained absent and has provided no explanation regarding the source of the deposits and credit entries. The assessee has again failed to participate in the proceedings and failed to provide any explanation or supporting evidence to challenge the AO's findings. Accordingly, in our view that the assessee failed to discharge the onus placed upon him by the Statute to explain the source of the deposits, and no material facts were brought forward to rebut the findings of the AO/ Ld. CIT(Appeals). In the case of **Chuharmal vs. Commissioner of Income-tax (1988) 38 Taxman 190 (SC)**, the Supreme Court held that section 69A covers unexplained money, bullion, jewelry, or other valuable articles, and such items are deemed to be income if the assessee fails to provide a satisfactory explanation regarding their source. The Supreme Court in this case held that in cases where the source of income cannot be explained, the income from those sources is deemed to be taxable under section 69A. Additionally, the case of **Smt. Srilekha Banerjee and Others vs. CIT, Bihar and Orissa (1964) AIR 697**, the Supreme Court held that the burden of proof

lies with the assessee to explain the source of money, and if the explanation is unsatisfactory, the Department is justified in treating it as income from undisclosed sources. Further, in the case of **CIT, West Bengal-II vs. Durga Prasad More (82 ITR 540)** the Court observed that the Taxing Authorities are entitled to examine the surrounding circumstances and apply the test of human probabilities to determine the veracity of an explanation.

8. Before us, none appeared on behalf of the assessee to represent the case, despite several opportunities of hearing give to the assessee. No Authorized representative has been appointed by the assessee as well till date, as per the assessee's letter filed before us. In the case of **Adim Jati Seva Sahkari Samiti Maryadit v. ITO 159 taxmann.com 8 (Raipur - Trib.)**, the ITAT made the following observations:

*“19. Apropos, the claim of the Ld. A.R. that the matter in all fairness be restored to the file of the A.O. for fresh adjudication, the same does not favor us. As observed by us herein above, the grounds based on which the order of the CIT (Appeals) has been assailed before us are devoid and bereft of any merit; therefore, the appeal is liable to be dismissed on the said count itself. **Apart from that, we are of a firm conviction that the right vested with an appellant to approach the tribunal by preferring an appeal before it is for a limited purpose, i.e. a grievance that the assessment framed by the AO, or for that matter, order of the CIT(Appeal) were not according to law. In no case can the Tribunal be taken as a forum for an appellant who, as per his volition, had either adopted an evasive or lackadaisical approach before the lower authorities and not participated in the assessment or appellate proceedings to come up with its case for the first time before the Tribunal and, as a matter of right seek restoring of the impugned order to the file of the lower authorities for fresh adjudication.***

20. Considering the facts mentioned above, finding no infirmity in the view taken by the lower authorities who had rightly made/sustained the addition of 2,47,65,369/-, we uphold the same.

21. In the result, the assessee's appeal is dismissed in terms of our observations above.

9. Again, in the case of **Chiranji Lal Bairwa v. ITO in ITA No.404/JP/2023**, the ITAT made the following observations, while dealing with a similar issue

“5. Succinctly, the fact as culled out from the records is that notice u/s 148 was issued on 30.03.2017 after obtaining prior approval of Pr.CIT-3, Jaipur since there was an information with the Department that assessee had sold land vide Khasra No. 1091/954 during FY 2009-10 for Rs.5,00,000/- within the municipal limits of Jaipur city. The value of this land under section 50C of the IT Act, 1961 is Rs.8,36,375/-. Notice u/s 142(1) was issued on 11.08.2017 and served for compliance on 24.08.2017. There was no compliance by assessee to this notice u/s 142(1) and subsequent notices u/s 142(1) and final opportunity/show cause notice u/s 142(1) dated 11.09.2017 for compliance on 25.09.2017. Assessment u/s 147/144 was completed ex-parte on 21.12.2017 at total income of Rs.8,31,375/-. Against this order, appeal was filed before Ld. CIT(Appeals)-3, Jaipur on 27.01.2018 who decided the appeal ex-parte on 19.12.2018 due to total non-compliance by assessee. Against this order assessee moved ITAT, Jaipur Bench, wherein the bench vide order in ITA No.206/JP/2019 dated 06.03.2020 set aside the issue to the file of ld. CIT(Appeals) for fresh adjudication. 6. Thus, the bench noted that the assessee was given the chance to represent the case before ld. CIT(A) and even though there were three notices given after set aside of the proceedings by the Bench to the assessee. Three instances of the notices are given in span of 10 months and the assessee did file any submission in support of the grounds raised in the appeal before the ld. CIT(A). Therefore, the ld. CIT(A) has passed a detailed order, mentioning the details of 3 notices issued to the assessee as reproduced here in below :

.....

Therefore, in support of the fact that the assessee remained noncompliant in the earlier round of litigation. One more chance was given by the Bench vide order dated 06.03.2020 on which the assessee in support of given three occasions did not appear and file the requisite submission before ld. CIT(A). Therefore, it appears that the assessee is not interested in pursuing his case on merits. Before us also while filing the appeal, the assessee did not file any document in support of the claim that why the addition of Rs. 8,31,375/- is not sustainable and it is sale of property and is capital assets and receipt thereof is not chargeable to tax in full. Based on these observations, the appeal of the assessee stands dismissed. In the result, the appeal of the assessee is dismissed.

10. Accordingly, in view of the above judicial precedents and the fact that the assessee has all throughout remained evasive and non-compliant, we are

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of the considered view that Ld. CIT(Appeals) has correctly upheld the order of the Assessing Officer. Accordingly, we find no infirmity in the order of Ld. CIT(Appeals) so as to call for interference.

11. In the result, the appeal of the assessee is dismissed.

This Order pronounced in Open Court on 06/12/2024

**Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER**

**Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER**

Ahmedabad; Dated 06/12/2024

Sr. PS

True Copy

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad**