



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

BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No.640/LKW/2024
Assessment Year: 2020-21

Rekha Bajpai 551-CHH/122-A New Sardari Khera Alambagh, Lucknow	v.	Assessment Unit Income Tax Department National Faceless Assessment Centre
TAN/PAN:AEVPB7662Q		
(Appellant)		(Respondent)

Appellant by:	None (Adjournment application)		
Respondent by:	Shri Sunil Kumar Rajwanshi, (DR)		
Date of hearing:	05	12	2024
Date of pronouncement:	11	12	2024

ORDER

This appeal has been preferred by the assessee against the order dated 29.08.2024, passed by the Id. Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi for Assessment Year 2020-21.

2. The brief facts of the case are that the assessee is engaged in liquor business and she had e-filed her return of income for the year under consideration on 31.11.2020, declaring a total income of Rs.5,33,760/-. The case was selected for scrutiny for the reason that "*The assessee has disclosed low income from receipts (liquor) on which TCS has been deducted*". During the course of assessment proceedings, although the

assessee had uploaded certain details on the Income Tax Department's Portal, the assessee did not respond to various statutory notices issued by the AO and did not furnish complete details sought for by the Assessing Officer (AO). The AO accordingly completed the assessment under section 143(3) read with 144B of the Act, after computing the income of the assessee as under:

SI No	Description	Amount (in INR)
1.	Income as per Return of Income filed	5,33,760
2.	Income as computed u/s143(1)(a)	
3.	Variation in respect interest claimed against the house property.	35,651/-
4.	Variation in respect interest claimed against CC Limit account.	14,33,495/-
5.	Variation in respect License Fee.	22,00,000/-
6.	Variation in respect deduction u/s 80C for the principal amount payment.	1,30,797/-
7.	Total Income/Loss determined as per the above proposal.	43,33,703/-

3. Aggrieved, the assessee preferred an appeal before the NFAC. However, the appeal before the NFAC came to be

dismissed for the reason of non-compliance on the part of the assessee.

4. Now, the assessee has approached this Tribunal challenging the dismissal of its appeal by the NFAC by raising the following grounds of appeal:

1. BECAUSE, on the facts and in the circumstances of the case, the ex-parte order passed by the Ld. National Faceless Appeal Centre [NFAC] Dt. 29.08.2024 dismissing the appeal of the assessee is liable to be set-aside and quashed as the impugned order passed by NFAC is wholly illegal and bad in law. There is no power vesting with NFAC to dismiss an appeal for non-prosecution and in the manner in which the impugned order is passed, i.e. without adjudication of the specific ground of appeal by assigning reasons. The impugned Order is bereft of reasons. Reliance by the Ld. NFAC on decisions, cited in the body of the impugned order is wholly misplaced.

2. BECAUSE, on the facts and in the circumstances of the case, the ex-parte order passed by the Ld. National Faceless Appeal Centre [NFAC] is unsustainable in law as no notice Dt. 07.06.2024, 02.07.2024, 13.08.2024 and 21.08.2024 fixing the date of hearings, as alleged have been served over the assessee and hence the Ld. NFAC was not justified in holding that assessee failed to appear before the authority. There is no finding recorded by Ld. NFAC in the impugned order that notice of hearings were properly served on the assessee, in accordance with law. Without Prejudice, as per CBDT circular/instructions, in case assessee fails to respond

to a notice dispatched through electronic mode then it becomes mandatory for the revenue authority to issue such notice in manual form. In the instant case, no physical notice of hearing has been received by the assessee/appellant and hence the impugned order cannot be sustained in law.

3. BECAUSE, on the facts and in the circumstances of the case, the ex-parte order passed by the Ld. National Faceless Appeal Centre [NFAC] is bad in law as it has upheld an order of Assessment whereby additions have been made most whimsically by the Assessing Officer, without due application of mind and ignoring the material available on record. Payment of license fee to Government is a most legitimate business expense, as there can be any.

4. BECAUSE, on the facts and in the circumstances of the case, the ex-parte order passed by the Ld. National Faceless Appeal Centre [NFAC] is bad in law as it has upheld an order of Assessment whereby an addition of Rs.35,651/- has been made without appreciating the true and correct facts and circumstances of the case.

5. BECAUSE, on the facts and in the circumstances of the case, the ex-parte order passed by the Ld. National Faceless Appeal Centre [NFAC] is bad in law as it has upheld an order of Assessment whereby an addition aggregating to a sum of Rs.14,33,495/- has been made which is a CC loan interest and an allowable business expense. The addition has been made without appreciating the true and correct facts and circumstances of the case.

6. BECAUSE, on the facts and in the circumstances of the case, the ex-parte order passed by the Ld. National Faceless

Appeal Centre [NFAC] is bad in law as it has upheld an order of Assessment whereby an addition aggregating to a sum of Rs.22,00,000/- has been made without appreciating the true and correct facts and circumstances of the case. The expenditure is towards payment to license fee to the Government Department for running a liquor establishment. It is a business expense and allowable under law.

7. BECAUSE, on the facts and in the circumstances of the case, the ex-parte order passed by the Ld. National Faceless Appeal Centre [NFAC] is bad in law as it has upheld an order of Assessment whereby an addition aggregating to a sum of Rs.1,30,797/- has been made without appreciating the true and correct facts and circumstances of the case. The payment is towards repayment of housing loan availed by assessee, which qualifies for deduction under Section 80C of the Act.

8. BECAUSE, on the facts and in the circumstances of the case, the order passed by the Ld. National Faceless Appeal Centre [NFAC] is bad in law as no due and proper opportunity of hearing was granted to the assessee to explain its case hence the order of Ld. National Faceless Appeal Centre [NFAC] deserves to be set-aside and quashed. That, as per the Assessment Order, some hearings in the matter were fixed during the COVID-19 period, thus, it was not possible to assessee to attend those hearing dates.

9. BECAUSE, on the facts and in the circumstances of the case, the order passed by the Ld. National Faceless Appeal Centre [NFAC] is plain arbitrary and purely based on conjectures and surmises and hence bad in law and liable to be set-aside and quashed.

10. The humble assessee, craves for leave to add/ amend any other ground with the prior permission of your honours.

5. None was present for the assessee when the appeal was called out for hearing. However, an application dated 04.12.2024, seeking adjournment was placed before me citing the reason that the assessee is in the process of engaging the Counsel for representation of the matter before the Tribunal. However, looking into facts of the case, I reject the adjournment application and proceed to adjudicate the appeal.

6. Since the order passed by NFAC was an ex-parte order, the ld. Senior D.R. had no objection to the restoration of appeal to the NFAC.

7. I have heard the Ld. Sr. D.R. and have also perused the material on record. It is evident that there was non-compliance on the part of the assessee during the course of first appellate proceedings. However, looking into the facts of this case, I am of the considered view that the assessee deserves one more opportunity to present her case and, therefore, in the interest of substantial justice, I restore this file to the Office of the NFAC with the direction to provide one more opportunity to the assessee to present her case. I also caution the assessee to fully comply with the directions of the NFAC in the set-aside

proceedings when called upon to do so, failing which, the NFAC shall be at complete liberty to pass the order in accordance with law, based on material available on record even if it is ex-parte qua the assessee.

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

Order pronounced in the open Court on 11/12/2024.

Sd/-
[SUDHANSHU SRIVASTAVA]
JUDICIAL MEMBER

DATED:11/12/2024

JJ:

Copy forwarded to:

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

By order

Assistant Registrar