



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

**BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

ITA No.321/LKW/2024  
Assessment Year: 2017-18

|   |    |                        |
|---|----|------------------------|
| Abhay Singh<br>10-A, Literacy House<br>Kanpur Road<br>Lucknow | v. | DCIT/ACIT-3<br>Lucknow |
| TAN/PAN:ANKPS4767R<br>(Appellant)                             |    | (Respondent)           |

|                        |                                  |    |      |
|------------------------|----------------------------------|----|------|
| Appellant by:          | None                             |    |      |
| Respondent by:         | Shri Sunil Kumar Rajwanshi, D.R. |    |      |
| 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 22.03.2024, 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 did not file his return of income for the year under consideration. As per information received from the Income Tax Officer, Ward 6(2), Lucknow, the Assessing Officer (AO) noticed that the assessee had deposited cash totalling to Rs.31,30,000/- in his Bank Accounts No.28100400002333 and 28100600003960 maintained with Bank of Baroda, Cantt. Road Banch, Lucknow during the

demonetization period. The AO accordingly reopened the case of the assessee under section 147 of the Income Tax Act, 1961 (hereinafter called "the Act") after issuing notice under section 148 of the Act to the assessee. However, the assessee did not respond to the said notice. The AO, thereafter, issued notice under section 142(1) of the Act along with questionnaire. However, the assessee again did not respond to the said notice also. Since there was no response from the side of the assessee to the statutory notices issued by the AO, he proceeded to assess the income of the assessee under section 144 read with section 147 and 144B of the Act. The AO, thereafter, assessed the total income of the assessee at Rs.31,30,000/- by making addition of Rs.31,30,000/- under section 69A of the Act.

3. Aggrieved, the assessee preferred an appeal before the NFAC. However, the appeal before the NFAC came to be dismissed by passing an order ex-parte qua 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 the Assessment Order passed by the Assessing Officer is contrary to law of facts and circumstances of the case.*

2. *Because the Ld. CIT(A) has erred in confirming the action of JAO while issuing the notice u/s 148 without jurisdiction and without proper service of notice.*

3 *Because the Ld. CIT(A) has erred in confirming the action of JAO while issuing the notice u/s 148 considering assessee has not filed the return Ignoring the fact that return was already filed vide acknowledgement no. 258118581261017 dated 26th October, 2017 at total income of Rs.2470290/-.*

4. *Because the Ld. CIT(A) has erred in confirming and the Assessing Officer in making total addition of Rs.31,30,000/- u/s 69A of the Act, without considering the peculiar facts of the case and providing proper opportunity of being heard to the appellant. The addition of Rs.31,30,000 is therefore liable to be deleted.*

5. None was present for the assessee when the appeal was called out for hearing. However, looking into the facts of the case, I proceed to adjudicate the appeal ex-parte qua the assessee.

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. Senior Departmental Representative and have also perused the material on record. It is evident that the order passed by the NFAC is an ex-parte order qua the assessee. 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 NFAC with the direction to hear the appeal on merits after providing reasonable opportunity of hearing to the assessee. 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 would 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