



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

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

ITA No.402/LKW/2024  
Assessment Year: 2010-11

Haridas 418, Amaria, Sitarganj Marg Pilibhit (U.P)	v.	The Income Tax Officer Range 2(4) Pilibhit
TAN/PAN:APQPH6916R		
(Appellant)		(Respondent)

Appellant by:	Shri K. R. Rastogi, C.A.		
Respondent by:	Shri Sunil Kumar Rajwanshi, D.R.		
Date of hearing:	12	12	2024
Date of pronouncement:	13	12	2024

**ORDER**

This appeal has been preferred by the assessee against the order dated 19.01.2024, passed by the Id. Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi for Assessment Year 2010-11.

2. The brief facts of the case are that as per AIR information received in the office of the Income Tax Department, it was noted that the assessee had deposited a sum of Rs.12,01,000/- in his Saving Bank Account during the year under consideration. The assessee had not filed his return of income for the year under consideration. The Assessing Officer (AO) issued statutory notices to the assessee. However, there was no compliance from the side of the assessee. The AO,

therefore, completed the assessment under section 147 read with 144 of the Act, assessing the total income of the assessee at Rs.12,01,000/- after making addition of the cash deposited in the Bank Account of the assessee, i.e. Rs.12,01,000/- as unexplained cash credit.

3. Aggrieved, the assessee preferred an appeal before the NFAC, who dismissed the appeal of the assessee by passing an order ex-parte qua the assessee.

4. Now, the assessee has approached this Tribunal challenging the orders passed by the AO as well as the NFAC by raising the following grounds of appeal:

*1. That Authorities below failed to appreciate that Notice u/s 148 of I. T. Act has been issued are solely on the basis of AIR Information being Rs.12,01,000/- Cash Deposited in S. B. Account without appreciating that Cash Deposit does not constitute Income. Further, no independent enquiry/application of mind has been made by Ld. A. O., hence the subsequent proceedings are also invalid.*

*2. That there was a reasonable cause for noncompliance as the Counsel Late Advocate Satendra Kumar Gupta who is looking after the Income Tax matter and keeping the e-profile id and password was expired on 25.07.2021. Assessee is also physically handicapped suffering from permanent disability being Paralysis with number of medical Problems, living in remote area of Pilibhit and is not properly educated hence due to lack of knowledge, he was not aware about e-*

*profile and issue of Notices in Appellate Proceeding as well as in Assessment Proceedings.*

*3. The Ld. C.I.T. (A) erred on facts and in law in upholding the addition of Rs.12,01,000/- being Total Cash Deposit in S. B. Account with Bareilly Kshetriya Gramin Bank, S.B. Account No. 55910100001251 during A.Y.- 2010-11 without appreciating that Rs.7,00,000/- were deposited on 23.11.2009 being Sale proceeds of Plot and remaining deposit is out of withdrawal from the same account which were again deposited on different dates. Thus there is no fresh deposit, accordingly, addition upheld is contrary to the facts of the case.*

*4. That Appellant had deposited Rs.7,00,000/- in cash on 23.11.2009 being sale proceeds of Plot sold through Registered Sale Deed. Out of the said Deposit, withdrawals were made as per need and out of the withdrawals, part of the some was later on again deposited on different dates. Thus, without considering the same, addition of Rs.12,01,000/- being Total Cash Deposit on different dates is contrary to the facts of the case and liable to be deleted.*

*5. The addition upheld is highly excessive, contrary to the facts, law and principle of natural justice and without providing sufficient time and opportunity to have its say on the reasons relied upon by Ld. A. O.*

5. The Ld. Authorized Representative for the assessee (Ld. A.R.) submitted that there is a delay of 100 days in filing the appeal before the Tribunal. He submitted that the assessee had filed an application dated 28.06.2024 for condonation of delay,

duly supported by an Affidavit and Medical Certificate, stating therein that the assessee is physically handicapped being partially paralyzed and suffering from various diseases due to permanent disability. Therefore, the appeal could not be filed within the stipulated period. He prayed that the delay be kindly condoned.

6. The ld. D.R. had no objection to the delay being condoned.

7. In view of the prayer made by the Assessee, duly supported by Affidavit, Medical Certificate and no objection by the ld. D.R., I condone the delay in filing of the appeal and admit the appeal for hearing.

8. The Ld. A.R. submitted that the assessee could not be represented before the AO in the proceedings initiated by him under section 147 of the Act owing to the fact that the assessee was not aware about such proceedings due to the fact that the Advocate, Shri Satendra Kumar Gupta of Pilibhit, who was looking after the affairs of the assessee, was seriously ill during the Covid 19 period and eventually he had died on 25.07.2021. Moreover, the assessee is a farmer and an illiterate person living in Rural Area and has 70% physical disability. The Ld. A.R. submitted an application for admission of additional evidence and invited my attention to the copies of Computation Chart,

Bank Statement with Bareilly Kshetriya Gramin Bank (Account No.559120013075), Sale Deed dated 26.11.2009 and Death Certificate of the Advocate. He submitted that these documents contain some important facts relating to the case of the assessee and prayed that the same may be admitted under Rule 29 of the I.T.A.T. Rules.

9. The Ld. Sr. D.R. had no objection to the admission of the additional evidences.

10. Having gone through the additional evidences filed before me, I am of the view that these evidences go to the very root of the matter and are germane to proper determination/assessment in the case of the Assessee. Accordingly, I admit the same.

11. The Ld. A.R. further prayed that in the interest of natural justice, the matter may be restored back the file of the AO where all the aforesaid additional evidences shall be produced to prove the transactions entered into by the Assessee during the year under consideration.

12. The Ld. Senior D.R. had no objection to the restoration of appeal to the AO.

13. I have heard the ld. Senior Departmental Representative as well as the ld. AR and have also perused the material on

record. 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 AO with the direction to provide one more opportunity to the Assessee to present his case. I have already admitted the additional evidences filed by the Assessee in the form of Computation Chart, Bank Statement with Bareilly Kshetriya Gramin Bank (Account No.559120013075), Sale Deed dated 26.11.2009 and Death Certificate of Advocate under Rule 29 of the I.T.A.T. Rules. The Assessee shall produce them before the AO during the course of set aside proceedings. I also caution the Assessee to fully comply with the directions of the AO in the set-aside proceedings when called upon to do so, failing which, the AO 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.

14. In the result, the appeal of the Assessee stands allowed for statistical purposes.

Order pronounced in the open Court on 13/12/2024.

Sd/-  
[SUDHANSHU SRIVASTAVA]  
JUDICIAL MEMBER

DATED:13/12/2024

JJ:

Copy forwarded to:

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

By order

Assistant Registrar