



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

BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No.674/LKW/2024
Assessment Year: 2017-18

Nand Kishore Singh Jarmapur Post Barauli Malik Barabanki (U.P)	v.	Assessment Unit Income Tax Department Lucknow
TAN/PAN:ATAPS3227Q		
(Appellant)		(Respondent)

Appellant by:	Shri Naman Jain, C.A.		
Respondent by:	Shri Sunil Kumar Rajwanshi, D.R.		
Date of hearing:	11	12	2024
Date of pronouncement:	13	12	2024

ORDER

This appeal has been preferred by the assessee against the order dated 20.09.2024, 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 filed his return of income for the year under consideration on 08.02.2018, declaring a total income of Rs.17,56,730/-. The Assessing Officer (AO) completed the assessment under section 143(3) of the Income Tax Act, 1961 (hereinafter called "the Act") on the income returned by the assessee without making any addition, vide order dated 25.12.2019. Subsequently, proceedings were initiated

under section 263 of the Act by the Ld. PCIT, Lucknow-1 and vide order dated 16.12.2021 passed under section 263 of the Act, the Ld. PCIT set aside the order of the AO dated 25.12.219 passed under section 143(3) of the Act and directed the AO to make fresh assessment by making proper enquiry and verification on the issues involved in the assessee's case. Consequent thereto, the AO completed the assessment under section 143(3) read with sections 263 and 144B of the Act, computing the income of the assessee for the year under consideration as under, vide order dated 25.03.2023:

Income as per assessment order u/s/143(3) of the Act	: Rs.17,56,730/-
Income as computed u/s/ 143(1(a) of the Act	: Rs.17,56,730/-
Variation in respect of unexplained cash credit	: Rs.20,00,938/-
Variation in respect of exempt agricultural income treated as income from other sources	: Rs.6,50,000/-
Total income determined	: Rs.44,07,668/-
Rounded off	: Rs.44,07,670/-

3. The AO also initiated penalty proceedings under section 270A and 271AAC r.w.s. 274 of the Act.

4. 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.

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

1. That the Ld. Appellate Authority has erred in dismissing the appeal of the assessee ex parte in limine without deciding the issues on merits as per law in terms of section 250(6). Therefore the order of CIT(Appeals) is not sustainable in eyes of law and is liable to be set aside for fresh adjudication as is it against the principle of natural justice.

2. On the facts and in the circumstances of the case and in law the Commissioner of Income-Tax(Appeals) erred in dismissing the Ground 1 made in grounds of appeal and thereby confirming additions/disallowance of Rs.2000938.00 referred in statement of facts submitted to Ld. Appellate Officer, which tantamount to double taxation of same income and also non consideration of the facts that such income has already been included in the sales and therefore should not be considered again.

3. That the Ld. Appellate Authority has erred in dismissing the Ground 2 made in grounds of appeal by confirming the additions/ disallowance U/s 68 of the Income Tax Act, 1961 w.r.t. u/s 115BBE of the Income Tax Act, 1961 under the facts and circumstances of the case.

4. That the Ld. Appellate Authority has erred in dismissing the Ground 3 made in grounds of appeal by disbelieving and making addition of already disclosed exempt agricultural income of Rs.650000 as income from other sources.

5. *Any other ground/s that may be taken at the time of appeal before Tribunal.*

6. During the course of hearing before me, the Ld. Authorized Representative for the assessee (Ld. A.R.) prayed that the matter may be restored to the file of the AO for deciding the issues in dispute after providing a reasonable opportunity of hearing to the assessee.

7. On the other hand, the Ld. D.R. submitted that the order passed by the NFAC is an ex-parte order. Therefore, the matter needs be restored to the file of the NFAC to decide the issues in dispute after providing reasonable opportunity of hearing to the assessee.

8. I have heard both the parties and have also perused the material on record. It is evident that the order passed by the NFAC is an ex-parte order. 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 provide one more opportunity to the assessee to present his 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.

9. 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