



**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH "A", LUCKNOW**

**BEFORE SHRI KUL BHARAT, VICE PRESIDENT AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

ITA No.380/LKW/2023
Assessment Year: 2017-18

Santosh Kumar Deeh Bhiyau, Jalalpur, Dulahoopur S.O. Ambedkar Nagar-224139.	v.	ITO Gonda-New W- (61)(91) NFAC Delhi, Gonda.
PAN:AUMPK3200E		
(Appellant)		(Respondent)

Appellant by:	Shri Gurjeet Singh, C.A.		
Respondent by:	Shri Saurabh Dubey, CIT(DR)		
Date of hearing:	12	12	2024
Date of pronouncement:	13	12	2024

ORDER

PER KUL BHARAT, VICE PRESIDENT.:

This appeal, by the assessee, is directed against the order of the Learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC) dated 10.10.2023 pertaining to the assessment year 2017-18. The assessee has raised the following grounds of appeal: -

"1. Because the action for initiation, continuation and conclusion of assessment proceedings u/s 147 r.w.s. 144 r.w.s 144B is being challenged on facts and law.

2. That on facts and circumstances of the case, notice u/s 148 issued by ITO, Gonda who does not have jurisdiction to issue notice as the assessee is filing return at Ambedkar Nagar address.

3. Because the action is being challenged on facts and law for not providing reasonable opportunity of being heard. The assessment order being passed is in violation of the principle of natural justice and without giving adequate time and opportunity to the appellant to present the case.

4. That on facts and circumstances of the case, the re-assessment proceedings is unreasonable as without noticing the distinction of the words, reasons to suspect distinguishable from reasons to belief pursuant to reasons recorded. Further, reasons recorded are vague, lacking tangible material/reasonable cause and justification.

5. That on facts and circumstances of the case, the Learned AO erred in making addition of Rs.1,22,18,362/- by treating cash deposit in bank

accounts as unrecorded cash u/s 69A where, as per assessee the cash deposit in bank is business receipts from truck operator business.

6. That on facts and circumstances of the case, the Learned AO erred in making addition of Rs.22,04,000/- for purchasing motor vehicle u/s 69 whereas per assessee the source of investment in purchasing motor vehicle is properly explainable.

7. For any consequential relief and/or legal claim arising out of this appeal and for any addition, deletion, amendment and modification in the grounds of appeal before the disposal of the same in the interest of substantial justice to the assessee.”

2. The facts in brief are that the case of the assessee was reopened u/s 147 of the Income Tax Act, 1961 (hereinafter referred as “the Act”). Thereafter, a notice u/s 148 of the Act was issued. No one attending the proceedings on behalf of the assessee, therefore, the Assessing Officer passed an exparte order thereby he assessed income at Rs.1,49,79,413/-. Aggrieved by this, the assessee preferred appeal before the Ld. CIT(A), who also passed exparte order against the assessee. Now the assessee is in appeal before this Tribunal.

3. Apropos to the grounds of appeal, the Ld. Counsel for the assessee contended that both the lower authorities have passed exparte order against the assessee. The assessee was not afforded sufficient opportunity by the authorities below, therefore, he prayed that the matter may be remanded back and the authorities below may be directed to provide adequate reasonable opportunity.

4. On the other hand, the Ld. Departmental Representative (DR) opposed the submission and submitted that the assessee had been negligence and has adopted these dilatory tactics.

5. Heard, the Ld. Representatives of the parties and perused the material available on record. Before the Ld. CIT(A), the assessee has taken multiple grounds included the grounds of not received of the notice issued u/s 148 of the Act. Admittedly, the appeal of the assessee has been dismissed by the Ld. CIT(A)

without adverting to the grounds raised and deciding the issue on merits. We, therefore, set aside the impugned order and restore the grounds to the file of the Ld. CIT(A) to decide it afresh, after giving adequate opportunity of hearing to the assessee. The assessee is hereby directed not to seek any adjournment without any medical exigency. Grounds raised in this appeal are allowed for statistical purpose.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

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

Sd/-
[ANADEE NATH MISSHRA]
ACCOUNTANT MEMBER

Sd/-
[KUL BHARAT]
VICE PRESIDENT

DATED: 13/12/2024

Vijay Pal Singh, (Sr. PS)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR
5. Guard File

By order

// True Copy//

Assistant Registrar