

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

BEFORE SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER

I.T.A. No.597/Lkw/2024
Assessment Year:2011-12

Shri Ram Shakya, H.No.120, Gali No. 6, Ashok Nagar, Etawah. PAN:FWMPS6333H (Appellant)	Vs.	Income Tax Officer, Ward-1(4), Kanpur. (Respondent)
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Appellant by	Shri Swaran Singh, C.A.
Respondent by	Shri Sanjeev Krishna Sharma, Addl. CIT (D.R.)

ORDER

(A) This appeal vide I.T.A. No.597/Lkw/2024 has been filed by the assessee for assessment year 2011-12 against impugned appellate order dated 22/09/2023 (DIN & Order No.ITBA/NFAC/S/250/2023-24/1056429503(1) of Commissioner of Income Tax (Appeals) ["CIT(A)" for short].

(B) The facts of the case, in brief, are that the assessee had deposited an amount of Rs.26,33,000/- in cash in his savings bank account in State Bank of India during the financial year 2010-11 but no return was filed by the assessee for assessment year 2011-12. The case of the assessee was selected for scrutiny u/s 147 of the I. T. Act. Accordingly, notice u/s 148 of the I. T. Act dated 30/03/2018 was issued requiring the assessee to file his

return of income. Further notice u/s 142(1) of the I. T. Act was also issued to the assessee. Since there was no response from the assessee, the Assessing Officer completed the assessment u/s 144/147 of the I. T. Act and determined the total income of the assessee at Rs.26,33,000/-.

(B.1) Aggrieved, the assessee filed appeal in the office of learned CIT(A) against the aforesaid assessment order. Vide impugned appellate order dated 22/09/2023 of learned CIT(A), the assessee's appeal was dismissed. While dismissing the assessee's appeal, the learned CIT(A) observed that the assessee was issued various notices but the assessee chose not to file any written submissions / documents and evidences. The learned CIT(A) went on to dismiss the assessee's appeal stating that the onus is on person making the claim, and the primary responsibility/onus/burden for proving the claim made before the tax authorities lies with the assessee appellant and in the present case the assessee has not been able to discharge the primary onus/burden statutorily & judicially cast upon him to substantiate the claims made.

(C) Aggrieved, the assessee has filed the present appeal in Income Tax Appellate Tribunal against the aforesaid impugned appellate order of learned CIT(A). In the course of appellate proceedings in ITAT learned A.R. for the assessee submitted that the Assessing Officer as well as learned CIT(A) have passed order without affording sufficient time and opportunity to the assessee. The learned AR for the assessee further submitted that the learned CIT(A) failed to pass a speaking order on merits and dismissed the assessee's appeal in a summary manner for violation of the provisions u/s 250(6) of the Act. He further submitted that the learned CIT(A) is duty bound u/s 250(6) of the IT Act to pass a speaking order on various grounds of appeal, on merits, but learned CIT(A) failed to do so. In view of the

foregoing, learned AR for the assessee submitted, the impugned order of learned CIT(A) should be set aside and the issue in dispute should be restored to the file of learned CIT(A) with the direction to pass fresh order in accordance with law after providing reasonable opportunity to the assessee.

(C.1) The learned Sr. D.R. for the Revenue left the matter to the discretion of the Bench.

(D) We have heard both sides. We have perused materials on record. In view of the submissions made by the Learned A. R. for the assessee, we set aside the impugned appellate order dated 22/09/2023 to the file of learned CIT(A) and we direct the learned CIT(A) to pass de novo order in accordance with law after providing reasonable opportunity of being heard to the assessee.

(E) In the result, the appeal of the assessee is partly allowed for statistical purposes.

(Order pronounced in the open court on 18/12/2024)

Sd/
(ANADEE NATH MISSHRA)
Accountant Member

Dated:18/12/2024

*Singh

Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT

4. D.R., I.T.A.T.,
5. CIT(A)

Assistant Registrar