

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

SMC MATTER

ITA no.45/Nag./2024
(Assessment Year : 2017-18)

Shri Gopal Gopikishan Bhattad
303, Shantinath Apartment no.1
551, Hirvi Nagar, Nagpur 440 008
PAN – ABBPB1220F

..... Appellant

v/s

Income Tax Officer
Ward-4(4), Nagpur

..... Respondent

Assessee by : Ms. Alfia Rozie
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 09/12/2024

Date of Order – 20/12/2024

ORDER

The present appeal has been filed by the assessee challenging the impugned order dated 26/09/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [“learned CIT(A)”], for the assessment year 2017-18.

2. In its appeal, the assessee has raised following grounds:-

“1. Whether on the facts and circumstances of the case, the learned Commissioner of Income Tax (Appeals) was justified in affirming the impugned assessment order passed by the Assessing officer making an addition of Rs.4,23,000/- as unexplained income in the hands of the appellant.

2. The appellant craves leave to add or alter any other ground that may be taken at the time of hearing of this case.”

3. In this case, the assessee is an Individual filed its return of income for the assessment year under consideration on 21/103/2017, declaring total income of ₹ 3,30,000. The Assessing Officer noticed that the assessee deposited cash of ₹ 4,23,000 in his bank account maintained with Aditya Angha Multi State Credit Co-operative Society, but not reported the same in the return of income. The Assessing Officer had reason to believe that the income chargeable to tax had escaped assessment within the meaning of section 147 of the Act. Despite several notices issued by the Assessing Officer, which remained unanswered by the assessee due to the reason that the assessee met with fatal road accident and suffered multiple injuries, which resulted the Assessing Officer passing order under section 144 of the Act by his best judgment. Since the assessee has not made any compliance of the notices issued by the Assessing Officer, the assessment was completed ex-parte by making addition of ₹ 4,23,000, as unexplained income in the hands of the assessee.

4. On appeal, the learned CIT(A) upheld the assessment order passed by the Assessing Officer by observing as under:–

"17.0 The explanation provided by the appellant about the nature and sources of cash deposits in the bank account of the assessee during the demonetisation period are not substantiated. Mere statement that the sources of the cash deposits are from the past savings of the wife of the appellant would not sufficient to get relief from the addition in the absence of strict proofs of generation of cash had suffered tax in the past in the hands of assessee or his wife. Therefore, the grounds raised by the appellant are dismissed based on the facts on the record and submissions made by the appellant during the appeal proceedings.

18.0 In the result, the appeal filed by Sri Shrigopal Gopikishan Bhattad against the order passed u/s 144 r.w.s. 147 for the AY 2017-18 is dismissed."

5. The learned Departmental Representative relied on the orders of the authorities below.

6. We have carefully considered the contentions of the learned departmental representative. The facts as stated clearly show that the assessee is an individual who has ₹ 4,23,000 in his bank account maintained with Aditya Angha Multi State Credit Co-operative Society, but not reported the same in the return of income. Before the learned CIT(A), the assessee filed its statement of facts, and no further compliance was made. It is apparent that the assessee is a small-time commission agent collecting money on behalf of the Bank and depositing the same in the bank account. The assessee has disclosed ₹ 3,30,000, as per return of income. Moreover, it is quite plausible that there is a past accumulated savings in the household which may be around ₹ 2.50 lakh considering the profile. Thus, the total availability of cash in hand is sufficient to explain the deposit of ₹ 4,23,000. Further, the addition has been made without citing any charging provisions. No cogent reason has been adduced before us by any of the authorities below justifying the addition made on account of unexplained income in the hands of the assessee. The learned CIT(A)'s order is unsustainable as he has not made any enquiry on his own and has tried to uphold the order of the Assessing Officer on a flimsy ground. Just because there is an inadvertence to disclose in the return of income does not ipso facto lead to addition of income. Under the facts and circumstances of the case, I am of the opinion that the learned CIT(A) was not justified in confirming the addition made by the Assessing Officer. The learned Departmental Representative could not

bring on record any corroborating evidence to assist the Bench to take a view as was taken by the authorities below. Accordingly, we set aside the impugned order passed by the learned CIT(A) and allow the grounds raised by the assessee.

7. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open Court on 20/12/2024

NAGPUR, DATED: 20/12/2024

**Sd/-
V. DURGA RAO
JUDICIAL MEMBER**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

*Pradeep J. Chowdhury
Sr. Private Secretary*

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur