

IN THE INCOME TAX APPELLATE TRIBUNAL

NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

SMC MATTER

ITA no.49/Nag./2024

(Assessment Year : 2017-18)

Umesh Shambharkar
Plot no.69, Kanfade Nagar
Opp. Sai Mandir, Wardha Road
Nagpur 440 015 PAN – CILPS5074B

..... Appellant

v/s

Income Tax Officer
Ward-1(5), Nagpur

..... Respondent

Assessee by : Smt. Veena Agrawal
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 04/12/2024

Date of Order – 26/12/2024

ORDER

This appeal by the assessee is against the impugned order dated 22/11/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2017-18.

2. The assessee has raised following grounds:-

"1. Whether the notice issued for reopening under Sec. 147 is valid in the eyes of law without proper sanction under Sec 151 of the Income Tax Act, 1961.

2. Whether the order of the Ld. CIT(A) is erroneous in the facts and law of the case.

3. Whether the Ld. CIT(A) is justified in passing an order without accepting the additional evidences brought on record.

4. Whether the Ld. CIT(A) is justified in sustaining the addition and treating the cash deposit of Rs. 11,14,000/- as Unexplained Money under Sec. 69A, read with Sec. 115BBE of the Income Tax Act, 1961.

5. Whether the Ed. CIT(A) is justified in sustaining the addition of the income computed at 20% of balance amount credited to the above bank accounts Rs.30,83,000/ credited into, assessee's bank account, as sales/receipt from the business activities during and computing income at 20% of these sales/receipt which comes at Rs. 6,16,700/- under Sec 68 as unexplained credits.

6. Whether the Ld. CIT(A) is justified in sustaining the interest amounting to Rs 892/ under the head Income from Other Sources.

7. Whether CIT(A) is justified in passing an order in breach of principle of natural justice."

3. When this appeal is taken up for hearing, the learned A.R. appearing for the assessee submitted that the learned CIT(A) passed an ex-parte order and prayed that one opportunity may be granted by restoring the matter to the file of the learned CIT(A) to enable the assessee to substantiate its case before the learned CIT(A).

2. On the other hand, the learned D.R. submitted that despite the learned CIT(A) provided sufficient opportunities to the assessee, however, the assessee did not appear before the learned CIT(A) and not furnished relevant details. He strongly supported the orders passed by the learned CIT(A).

3. I have heard both the parties, perused the materials available on record and gone through orders of the authorities below. I find that though the learned CIT(A) granted opportunities to the assessee to substantiate its case, ultimately, the order passed by him is an ex-parte order. Therefore, I am of the opinion that by following the principles of natural justice, one opportunity should be given to the assessee to substantiate the case before the learned

CIT(A). In view of the above, the order passed by the learned CIT(A) is set aside and remit the matter to the file of the learned CIT(A) and direct him to adjudicate the matter afresh on merit and in accordance with law after providing reasonable opportunity of being heard to the assessee. It is also directed that the assessee should not seek adjournment without there being a justified reason. Accordingly, all the grounds raised by the assessee in this appeal are allowed for statistical purposes.

4. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 26/12/2024

NAGPUR, DATED: 26/12/2024

**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