



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.519 /CTK/2024
Assessment Year : 2017-18

Ramesh Chandra Chand Bhurukunda, PO. Ambliatha Jaleswar Balasore 756032	Vs.	Income Tax Officer, Ward-1, Balasore
PAN/GIR No. AIUPPC 5374 M		
(Appellant)	..	(Respondent)

Assessee by : Shri P.K.Mishra, Adv
Revenue by : Shri S.C.Mohanty, Sr DR

Date of Hearing : 30/12/2024
Date of Pronouncement : 30/12/2024

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 04/10/2024 in Appeal No. NFAC/2016-17/10301988 for the assessment year 2017-18.

2. Shri P.K.Mishra, Id AR appeared for the assessee and Shri S.C.Mohanty, Sr. DR appeared for the revenue.

3. The assessee has raised following grounds of appeal:

"1. For that, the learned CIT(A) has committed gross error of law as well as of fact in not providing sufficient reasonable opportunity of hearing and in dismissing the appeal of the Appellant, by upholding the addition made by the learned A.O., particularly when, the very initiation of reassessment proceeding, itself is without jurisdiction and without the authority of law, as such, it being not sustainable in the eye of law, needs to be quashed in the interest of justice.

2. For that, the learned A.O. as well as the learned CIT(A) have committed gross error of law as well as of fact in making addition of Rs. 20,15,516.00, treating it as unexplained money by applying provisions of section 69A of the Act, ignoring the fact that, the total deposits made in the bank account are nothing but the trading receipts received by the Appellant, as such, the impugned addition made by the learned A.O. and confirmed by the learned CIT(A), being not sustainable in the eye of law, needs to be deleted in the interest of Justice.

3. For that, when the impugned addition has been made by the learned A.O., Ignoring the fact that, the total deposits relate to trading receipts received by the Appellant and without providing sufficient effective opportunity of being heard to the Appellant to substantiate it, the learned CIT(A) should not have confirmed the addition made by the learned A.O. of Rs. 20,15,516.00, rather should have deleted it in the interest of justice.

4. For that, section 69A of the Act has no application under the facts and in the circumstance of the present case, as such, the impugned addition made by the learned A.O. of Rs.20,15,516.00 and confirmed by the learned CIT(A), by applying provisions of section 69A of the Act is completely wrong, illegal, contrary to the facts on record and not sustainable in the eye of law, hence needs to be deleted in the interest of justice.

5. For that, the Appellant craves leave of this Hon'ble Tribunal to urge other grounds of appeal, if any, at the time of hearing in the interest of justice."

4. It was submitted by Id AR that the impugned order of the Id CIT(A) has been passed ex parte without affording reasonable opportunity of hearing to the assessee. It was submitted that when the very intimation of

reassessment processing is without jurisdiction the Id CIT(A) should have quashed the assessment. It was the submission that the total deposits in the bank receipts relates to trading receipts by the assessee. Hence, this fact has not been properly considered by the AO & the Id CIT(A). Further it was submitted that the assessment order has been passed on the section 147 read with section 144 of the Act without giving proper opportunity to substantiate its claim by the AO. It was his prayer that if one more opportunity is granted the assessee would be in position to cooperate in set aside proceeding with documentary evidences.

5. In reply, the Id Sr. Dr opposed the prayer of the assessee.

6. We have considered the rival submissions A perusal of the order of the Id CIT(A) clearly shows that the CIT(A) has eight opportunities have been provided to the assessee , as is evident at page 4 para 4 of the impugned order. As the assessee failed to respond the notices the Id CIT(A) was compelled to confirm the assessment order. It is also noticed that the Id CIT(A) has not considered the addition on merit. Before us Id AR has requested one more opportunity to put forth his grievance with documentary evidences. Hence, in the interest of justice, the issues in this appeal are restored to the file of the AO for readjudication after providing adequate opportunity of hearing to the assessee subject to cost of Rs.2,000/- (Rupees two thousand only) in to be deposited within 60 days from the date of this order under the head "others" in ITNS challan 280 in

the Account No.500 and same is to be filed before the Id AO. In the event the cost is not paid, the order passed by the Id CIT(A) and that of the AO would stand confirmed.

7. In the result, appeal of the assessee stands partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 30/12/2024.

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

निष्पक्ष सुलभ
सत्वर न्याय
sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 30/12/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Ramesh Chandra Chand
Bhurukunda, PO. Ambliatha Jaleswar
Balasore 756032
2. The Respondent: Income Tax Officer,
Ward-1, Balasore
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT,
5. DR, ITAT,
6. Guard file.

//True Copy//

By order

Sr.Pvt.Secretary

ITAT, Cuttack