



**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH "SMC", JABALPUR**

BEFORE SHRI KUL BHARAT, VICE PRESIDENT

ITA No. 147/JAB/2023
Assessment Year: 2017-18

Rishi Raj Patel, Damoh 1, Bakayan Village, Lukayan, Batiagarh, MP-470661.	v.	Income Tax Officer, Ward Damoh, Income Tax Office, Infront of JP School, MP-470661.
PAN:BCGPP7457M		
(Appellant)		(Respondent)

Appellant by:	Shri Dhiraj Ghai, Adv.		
Respondent by:	Shri Bharat Sheogankar, Sr. CIT(DR)		
Date of hearing:	08	01	2025
Date of pronouncement:	09	01	2025

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 04.10.2023 pertaining to the assessment year 2017-18. The assessee has raised the following grounds of appeal: -

"1. On the facts and circumstances of the case, order passed by CIT (A) is bad in law as assessee was being not provided with adequate opportunity to give replies and hence in lieu of Sona Builder Vs CIT, the additions made in assessment order of Rs. 11,85,000/- may kindly be deleted.

2 On the facts and circumstances of the case, CIT(A) erred in not considering the facts that assessee has provided all replies at assessment stage which itself were quite sufficient to prove source of cash deposition in bank accounts and hence the addition of Rs. 11,85,000/- may kindly be deleted.

3 On the facts and circumstances of the case, CIT(A) erred in considering the credit entries only of the bank accounts while making addition there were debit entries too which were sufficient to prove source of the cash deposition in bank during demonetisation period and henceforth the addition of Rs. 11,85,000/- may kindly be deleted.

4 On the facts and circumstances of the case, CIT(A) erred in ignoring the fact that assessee is an agricultural having sufficient agricultural land to earn agricultural income so as to keep opening cash in hand as on 08.11.2016 & to prove source of the cash deposition during demonetisation

period of Rs. 11,85,000/- henceforth the addition of Rs. 11,85,000/may kindly be deleted.

5 Without prejudice to above, CIT(A) erred in making addition of Rs. 11,85,000/- being 100% cash depositing during demonetisation period which otherwise would have been added to income by applying 8% of cash deposit toward business income and henceforth the addition of Rs. 11,85,000/- may kindly be deleted. 6 On the facts and circumstances of the case, CIT(A) erred in not considering that assessee was in practice of depositing cash in past years also of which adverse opinion was held thereof and hence in lieu of consistency accounting principles addition of Rs. 11,85,000/- may kindly be deleted. 7 Applicant craves leave to add or amend any ground of appeal.”

2. The facts giving rise to the present appeal are that the assessee filed his return of income on 28.05.2018 through electronically mode for the assessment under consideration, declaring total income at Rs.9,50,000/-. Thereafter, the case was selected for scrutiny through Computer Assisted Scrutiny Selection (CASS). The Assessing Officer issued statutory notices but there was no compliance on behalf of the assessee. Therefore, the Assessing Officer passed an exparte order whereby he assessed income u/s 144 of the Income Tax Act, 1961 (hereinafter referred as to “the Act”) at Rs.12,03,100/-. Aggrieved by this, the assessee preferred appeal before the Ld. CIT(A) who also dismissed the appeal exparte to the assessee. Now the assessee is in appeal before this Tribunal.

3. Apropos to the grounds of appeal, the Ld. Counsel for the assessee submitted that both the lower authorities have not given adequate opportunity to the assessee and the assessment order as well as the First Appellate Order passed orders exparte to the assessee. The Ld. Counsel for the assessee submitted that the AO did not consider the explanation offered regarding the cash deposits during the demonetization period.

4. On the other hand, the Ld. Departmental Representative (DR) opposed the submission and supported the orders of the lower authorities.

5. I have heard the Ld. Representatives of the parties and perused the material available on record. It is the grievance of the assessee that the material placed before the lower authorities was not considered and without considering the same, the impugned additions have been made by the lower authorities. Therefore, considering the totality of the facts and the material placed before me, I am of the considered view that to sub-serve the principle of natural justice and to be fair with both the parties, deem it necessary and expedient under the facts of the present case to set aside the impugned orders and restore the assessment to the file of the Assessing Officer to verify the correctness of the claim of the assessee. Needless to say that the AO would provide adequate opportunity to the assessee for explaining the source of such cash deposits. The grounds raised in the appeal are allowed for statistical purposes.

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

Order pronounced in the open Court on 09/01/2025.

Sd/-
[KUL BHARAT]
VICE PRESIDENT

DATED: 09/01/2025

Vijay Pal Singh, (Sr. PS)

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT (Judicial)
4. The PCIT
5. DR, ITAT, Jabalpur
6. Guard File

By order

// True Copy//

Assistant Registrar
ITAT, Jabalpur