

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

**(VIRTUAL COURT)**

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER  
AND SH. KRINWANT SAHAY, ACCOUNTANT MEMBER**

**I.T.A. No. 359/Asr/2023**  
Assessment Year: 2012-13

Rajeev Kumar,  
House No. 4, Gali No.1  
Amarkot Krishna Nagar,  
Amritsar 143001

Vs.

Income Tax Officer,  
Ward 4(4), Amritsar  
Punjab

[PAN: AOJPK 2808R]

**(Appellant)**

**(Respondent)**

Appellant by : Sh. P. N. Arora, Adv.  
Respondent by : Sh. Neelam Sharma, Sr. D.R.  
Date of Hearing : 23.12.2024  
Date of Pronouncement : 17.01.2025

**ORDER**

**Per Udayan Dasgupta, J.M.:**

This appeal is filed by the assessee against the order of the Id. CIT(A) National Faceless Appeal Centre (NFAC) Delhi dated 18.10.2023 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the ITO, Ward 4(4), Amritsar passed u/s 147/144 of the I.T. Act, 1961 dated 12.12.2019.

2. The grounds of appeal are in essay form and as such not reproduced in the order.

3. Ground Nos. 1, 2, 3 and 8 relates to the issue of non-service of notice u/s 148 and ground nos. 4 & 5 relates to the issue of non-supply of copy of recorded reasons and ground nos. 6 and 7 relates to non application of mind of the Assessing Officer while recording satisfaction for reopening of the case and ground no. 9 relates to merits of the case where the contention of the assessee is that the bank deposits has been made out of earlier bank withdrawals and ground no. 10 is additional ground.

4. The brief facts of the case are that the assessee has deposited an amount of Rs.23,51,355/- in cash in his bank account maintained with IDBI Bank & ICICI Bank, Amritsar during the financial year 2011-12 relevant to the assessment year 2012-13. In absence of any return on record notices u/s 136(6) were issued on 13.09.2018 with prior approval of the Id. PCIT which was served through speed post requesting the assessee to furnish information and explanations regarding the source of cash deposits made by him in his bank account. Though the assessee replied to such notice on 24.10.2018, no supporting documentary evidences were filed before the AO and he failed to explain the source of the cash deposits. Thereafter, notice has been issued by the Assessing Officer u/s 148 of the Act on 22.03.2019 after necessary approval from higher authorities and the same was served upon the

assessee electronically and also by affixation. In absence of any compliance and in absence of any return being filed in response to such notice, the subsequent notices u/s 142(1) were also issued and served electronically and through speed post fixing the case on various dates which also has remained un-complied. Subsequently, the Assessing Officer completed the assessment ex-parte by determining the total income at Rs.23,51,360/- vide order dated 12.12.2019.

5. The matter was carried in appeal before the first appellate authority and the said appeal has been dismissed by the Id. CIT(A) on merits of the case by observing as follows:

*“5.3 the instant case, the appellant held with regard to the cash deposits in his saving fund account that the cash was received from the loan defaulter on behalf of the company. The same was deposited in the bank account and remitted back to the principle company. On the other hand, in the statement of facts, the appellant held that the cash of Rs. 23,51,355/- has been deposited out of the amount withdrawn earlier and other collections which is contra to the submissions made. Therefore, it is nothing but afterthought. However, the appellant has not produced any verifiable documentary evidence in this regard. The AO has correctly held that the assessee failed to discharge the onus vested on him by not filing necessary explanation of source of cash deposited with sufficient documentary evidence. Since the appellant has failed to substantiate his grounds, I do not find any infirmity in the assessment order and the addition made by the AO are confirmed, as the source of which remain unexplained and unsubstantiated. **Therefore, the grounds raised by the appellant are dismissed.**”*

6. Now, the matter is before the Tribunal on various grounds contained in the memorandum of appeal.

7. The ld. AR of the assessee at the onset contested that the notice u/s 148 has not been served on the assessee neither by affixation nor by post and he referred to page 9 of the paper book to submit that the order of affixation dated 30.03.2019 has not been properly done as per the provisions of the Act because it does not bear the signature of independent witness so the said affixation cannot be held to be legally valid and he requested the revenue to produce documentary evidences of actual service by post or otherwise. The Revenue was called upon to produce assessment records to prove service of statutory notice u/s 148 before the Tribunal on this date of hearing. The ld. DR produces documentary evidences of service of notice u/s 148 through electronic mail, duly served on 22.03.2019 on e-mail id [vaneetkumar9999@gmail.com](mailto:vaneetkumar9999@gmail.com) and enclosed the copy of the screenshot as documentary evidence which the ld. AR of the assessee accepted as correct on examination of the same. As such, the allegation contained in these ground nos. 1, 2, 3 and 8 regarding the non service of notice u/s 148 are satisfactorily proved by the department and these grounds are decided against the assessee.

8. Now coming to the next issue regarding non issue of copies of recorded reasons, as alleged by the ld. AR, it is clarified by the ld. DR that since no return has

been filed in response to notice u/s 148, the Assessing Officer could not have possibly issued or supplied a copy of the recorded reasons, but the said recorded reasons has been issued to the assessee after completion of assessment proceedings in response to an application filed on 09.01.2020 post assessment, (because in this case the assessment has been completed on 12.12.2019). The copy of the recorded reasons are also enclosed by the assessee as part of the paper book and as such on this issue, the assessee should not be having any grievance. So this ground of appeal of the assessee is also decided against the assessee being devoid of any merits.

9. Now coming to the next issue regarding non application of mind by the AO before issue of notice u/s 148, it is seen from the reasons recorded that the Id. AO has caused enquiry by issue of notice u/s 133(6) after obtaining approval from the Id. PCIT and in absence of any proper explanation from the assessee regarding the source of cash deposited in bank and in absence of any return on record, the AO could have formed reasons to believe that income chargeable to tax has escaped assessment. However, in course of hearing, the Id. AR of the assessee never put forth any argument on this ground, and as such, this issue in appeal is decided against the assessee.

10. Ground No. 9: (as per Form-36)

*“That the CIT(A) did not appreciate that even otherwise no addition is called for because the deposits were made out of earlier withdrawals from bank from time to time and the*

*authorities below did not appreciate that the assessee was employee of the company and the cash received by him was from loan defaulters on behalf of the company and the same was deposited in the bank account and the same was remitted back to the Principal Company. In this connection, a certificate was duly furnished before the 'authorities below. The department has not been able to place any material on record to justify the addition. As such the addition of Rs.23,51,355/- is not at all called for and the same may be deleted. The addition has been made purely on the basis of conjectures, surmises and suppositions. Alternatively, the addition made is very high & excessive.”*

11. Now coming to the merits of the case, i.e. contained in ground nos. 9 & 10 of the appeal of memorandum, it is seen that the assessee has submitted that the deposits were made out of earlier withdrawals from bank from time to time and the assessee was an employee of the company *M/s Shri Ram Transport Corporation Finance Company*, and was posted as Senior Product Executive (as per the certificate given by the employer company). The explanation of the assessee was that the cash was received by the assessee from loan defaulters on behalf of the company and the same was deposited in his bank account, and thereafter, the said amount was remitted back to the principal company. In other words, the assessee wanted to explain that the cash deposits in his bank account are not his money and he was simply holding the said cash as custodian of his employers and subsequently these cash have been transferred to the employer Company.

12. The ld. DR relied on the order of the ld. CIT(A) and on this particular issue he submitted that all these explanations and documentary evidences regarding employers certificate and explanation of its source of origin and its utilization is

being given for the first time by the assessee before the Tribunal, and all these documentary evidences needs to be verified and enquired into, without which, its authenticity cannot be accepted.

13. We have heard the rival submissions and considered the materials on record and we find that the issue and the explanations on merits has not been properly supported by necessary documents and nothing has been filed before the Assessing Officer and before Id. CIT(A) and in fitness of things, these new documentary evidences should he examined and verified by the Assessing Officer, and thereafter the same can be considered for the purpose of explanation of the source of deposits. As such we set aside the matter back to the files of the Assessing Officer on this particular issue contained in ground no. 9 only, for examination of the documents and submissions made by the assessee on merits of the case and thereafter pass necessary order as per the provisions of law.

14. As such, the assessee is also directed to file all these documentary evidences relating to the employer certificate and corresponding bank accounts and any other documentary evidences as may be required to prove the source of bank deposits to the satisfaction of the Assessing Officer.

15. Needless to say the assessee should get proper opportunity of being heard.

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

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 17.01.2025

**Sd/-**  
**(Krinwant Sahay)**  
**Accountant Member**

**Sd/-**  
**(Udayan Dasgupta)**  
**Judicial Member**

*\*GP/Sr.PS\**

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy

By Order