

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGARAO, JUDICIAL MEMBER

SMC MATTER

ITA no.140/Nag./2024
(Assessment Year : 2017-18)

Joyshish Amarendranath Maitra
Baheti Chambber, Joshi Market
Tower Square, Akola 444 001
PAN – AFOPM2530B

..... Appellant

v/s

Asstt. Commissioner of Income Tax
Income Tax Circle, Akola

..... Respondent

Assessee by : None
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 06/01/2025

Date of Order – 27/01/2025

ORDER

The present appeal has been filed by the assessee challenging the impugned order dated 15/02/2024, 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. Hon'ble CIT (Appeal) erred in dismissing Appeal.

2 Hon'ble A.O. passed order without considering documents which is invalid and bad in law.

3. Hon'ble A.O. passed order only due to difference of opinion without any base.

4. Hon'ble A.O. makes addition only due to Person from whom Cash received was in Jail which not justified.

5. The learned AO added the cash to income just on the basis of PAN card not being produced of the person remitting the cash. Sufficient documents of police and court were produced to show that the person may be in prison still but this fact was completely ignored.

6. The Learned AO sought time of 4 days on 22-12-2019 to submitted paper being produced with court documents but surprisingly the learned AO passed the order in haste on 24-12-2019, well before the deadline which is not justified.

7. Any other ground shall be prayed at the time of hearing."

3. During the year under consideration, the assessee was engaged in the profession of Chartered Accountant and financial Consultancy. The assessee got his audited books of accounts and had filed his return of income electronically on 03/03/2018 declaring total income ₹ 40,77,100. Thereafter, the case was selected for scrutiny and notice under section 143(2) of the Act was issued by Assessing Officer in response to which the assessee produced all the documents and furnished information which were called upon by the Assessing Officer from time to time through online portal. Thereafter, the Assessing Officer asked the assessee to produce supporting document of Sanjay Omprakash Sharma, who was in Tihar Jail from whom cash was received during demonitisation period in the form of old notes currencies which were deposited in the bank during demonitisation period. Thereafter, the assessee produced supporting legal documents of Sanjay Sharma along with books of accounts and case records. Thereafter on dated 26/12/2019, the Assessing Officer passed assessment order by making total addition ₹ 34,00,378, under section 68 of Act which were added to the total income

under section 68 of the Act chargeable under section 115BE of the Act. Aggrieved, the assessee filed appeal before the first appellate authority.

4. On appeal, since the assessee did not appear during the first appellate proceedings, hence the learned CIT(A) passed ex-parte order by dismissing the appeal of the assessee.

2. During the proceedings before us, when the case was called for hearing, none appeared on behalf of the assessee. Keeping in view the overall facts and circumstances of the case and since the learned CIT(A) has passed ex-parte order qua the assessee without dealing the issues raised by the assessee on merits, therefore, we deem it fit and appropriate to set aside the impugned order passed by the learned CIT(A) and remit back the entire matter to his file for denovo adjudication on merits after providing adequate 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.

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

Order pronounced in the open Court on 27/01/2025

NAGPUR, DATED: 27/01/2025

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