

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "B" BENCH : MUMBAI

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER
AND
SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No. 4776/Mum/2024
Assessment Year :2012-13

Shri Nizamuddin Mansoorali Sayani, B-Block, 4 th Floor, Room No. 47, 76, 77, 7 Bundeali Bldg., Haji Bachu Ali Road, Off. S.V.P. Road, Dongari, Mumbai PAN : ASYPS9959C	vs.	Income Tax Officer, Ward-17(2)(4), Aayakar Bhavan, Mumbai
(Appellant)		(Respondent)

For Assessee :	Shri Sameer G. Dalal
For Revenue :	Ms. Monika H. Pande

Date of Hearing :	28-01-2025
Date of Pronouncement :	29-01-2025

PER B.R. BASKARAN, A.M :

The assessee has filed this appeal challenging the order dt.24-07-2024 passed by the Ld.Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [‘Ld.CIT(A)’] and it relates to AY. 2012-13.

2. At the outset, we notice that the Ld.CIT(A) was constrained to pass the order *ex-parte* since the assessee did not appear before him. The dispute involved in this appeal is related to un-explained cash deposits added to the total income of the assessee. The Ld.AR submitted that the cash deposits have been made out of cash balance available in the Books of Account. The Ld A.R further submitted that the assessee had also furnished the details of cash sales and also produced the Books of Account before the AO. However, without considering the Books of Account and the details furnished by the assessee, the AO has made the impugned addition. Further, the assessee could not appear before the Ld.CIT(A) for the reasons beyond its control. Accordingly, the Ld.AR submitted that, in interest of natural justice, all the issues may be remitted to the file of the AO with a direction to re-examine the issue by duly considering the Books of Account and other details furnished by the assessee.

3. We heard the Ld.DR and perused the record. The explanation of the assessee is that the impugned cash deposits have been made out of cash balance available in the Books of Account, which was in turn, generated out of cash sales effected by the assessee. It is the submission of the assessee that the assessee has produced the Books of Account and other details before the AO. The AO has made this addition, without examining the Books of Account and other details. If the cash deposit has been made out of the cash balance available in the Books of Account, the same would stand explained by the Books of Account itself and in that case, no addition u/s. 69 of the Act is warranted. However, since the AO did not examine the Books of Account, the claim of the assessee requires verification by examining the Books of Account. Accordingly, we are of the view that this issue requires fresh examination at the end of the AO. Accordingly we set

aside the order passed by the Ld.CIT(A) and restore all the issues to the file of the AO for examining them afresh, in the light of discussions made supra.

4. In the result, the appeal filed by the assessee is treated as allowed.

Order pronounced in the open court on 29-01-2025

Sd/-
[SANDEEP SINGH KARHAIL]
JUDICIAL MEMBER

Sd/-
[B.R. BASKARAN]
ACCOUNTANT MEMBER

Mumbai,
Dated: 29-01-2025

TNMM

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R., ITAT, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai