

आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर
IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR
श्री रविश सूद, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्य के समक्ष ।
BEFORE SHRI RAVISH SOOD, JM & SHRI ARUN KHODPIA, AM

आयकर अपील सं. / ITA No: 554/RPR/2024
(निर्धारण वर्ष Assessment Year: 2013-14)

Sapuran Khandelwal, House No. 235, Village- Boriyakala, Post- Sejbahar, Mana Camp, Raipur- 492001, C.G.	V s	Income Tax Officer, Ward-4(1), Raipur
PAN: CELPK3429Q		
(अपीलार्थी/Appellant)	.	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri Ravi Agrawal, CA
राजस्व की ओर से /Revenue by	:	Smt. Tarannum Verma, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	31.01.2025
घोषणा की तारीख/Date of Pronouncement	:	31.01.2025

आदेश / ORDER

Per Arun Khodpia, AM:

The captioned appeal is filed by the assessee against the order of Commissioner of Income Tax (Appeal), NFAC, New Delhi, [in short "Ld. CIT(A)"], u/s 250 of the Income Tax Act, 1961 (in short "The Act"), for the AY 2013-14 dated 30.10.2024, which in turn arises from the order u/s 147 r.w.s. 144 dated 27.09.2021 passed by ITO, Ward-4(1), Raipur (in short Ld. AO").

2. The grounds of appeal raised by the assessee are as under:

1. *That, on the facts and circumstances of the case and in law, order passed u/s 147 rws 144 of the Income Tax Act, 1961 dt.27/09/2021 is illegal and bad in law and is liable to be quashed.*
2. *That, on the facts and in law, order passed u/s 147 rws 144 dt. 27/09/2021 is invalid as notice u/s 148 has been issued and assessment u/s 147 rws 144 has been framed by different non-jurisdictional Assessing Officers, and therefore. it is liable to be quashed.*
3. *That, on the facts of the case, no proper opportunity was not given to the appellant by the lower authorities and therefore the assessment is liable to be quashed.*
4. *That, without prejudice to above, on the facts of the case. Ld. CIT(A). NFAC erred in confirming following addition n made by the AO:*
 - I. *Addition of Rs.75,00,000.00 u/s 69A*
 - II. *Addition of Rs.38,500.00 u/s 69A, and*
 - III. *Addition of Rs.1,563.00.*

All these additions, total amounting to Rs.75,40,063.00, are made without appreciating the facts and these additions are liable to be deleted.

3. The brief facts of the case, culled out from the order of Ld. CIT(A), reads as under:

2. Brief facts of the case:-

Information was available with the AO that following transactions were conducted by the appellant through his bank account maintained by him in Union Bank of India (UBI).

Deopuri, Raipur:-

<i>S. No.</i>	<i>A/c No.</i>	<i>A/c Type</i>	<i>Amount</i>	<i>Nature of transaction</i>
<i>1.</i>	<i>427302010062236</i>	<i>SB</i>	<i>75,00,000/-</i>	<i>Cash Deposits</i>
			<i>1,563/-</i>	<i>Interest Income</i>
			<i>38,500/-</i>	<i>Other Credit</i>
<i>Total</i>			<i>75,40,063/-</i>	

2.1 Consequently, notice u/s. 148 of the Act was issued to the appellant requiring him to file his ITR. As no response was received from the appellant, notice u/s. 142 of the Act, dated 05.03.2021 was further' issued to him. As the non-compliance from appellant continued, a show cause notice dated 23.09.2021 was issued and final opportunity was given to the appellant to furnish the source of cash deposit. Interest income received and other credits in the UBI. As there was no Response at all from the appellant before the AO, the assessment proceedings were completed by passing an Order u/s. 147 r.w.s. 144 of the Act dated 27.09.2021, by making the following additions to the Total Income of the appellant:

- I. *Rs.75,38,500/- being unexplained cash deposits of Rs.75,00,000/- and unexplained non-cash credits of Rs.38,500/- into the above-mentioned bank account of the appellant.*
- II. *Rs. 1,563/- being unaccounted interest income.*

4. Aggrieved with the aforesaid additions, assessee preferred an appeal before the Ld. CIT(A), however, the appeal of assessee is dismissed in absence of any representation by the assessee. The assessee therefore dissatisfied with the order of Ld. CIT(A) has carried the present matter before us.

5. At the outset, Ld. AR furnished before us, an affidavit dated 23.01.2025 duly signed by the assessee that in appeal Form No. 35 against column "*Whether notices / communications may be sent on email?*", assessee opted "**No**", therefore the assessee was under Bonafide belief that the notices will be served to him in the physical form. As per affidavit of the assessee, since the assessee was not acquainted with the system to access emails, he requested for communications through modes other than email, therefore, he was expecting a physical service of the notice, however, no notice were serviced on the assessee by post, therefore, the assessee, being oblivion of the appellate proceedings, was unable to appear before the Ld. CIT(A) on

various dates, as per notices issued. In view of aforesaid facts, it was the prayer by Ld. AR, that the matter may be restored back to the file of Ld. CIT(A) so that the assessee would have the opportunity to furnish all the necessary submissions to represent its case and the matter would be decided in accordance with the law.

6. On the contrary, Smt. Tarannum Verma, Ld. Sr. DR submitted that the assessee had furnished an email ID in Form No. 35, though, he opted "No" against the communications through email, however as per departmental practice and procedures all such communications are made on the said email of the assessee along with uploading on the ITBA Portal, therefore, at this stage, the plea of the assessee that communications were not served upon him shall not be entertained. Ld. Sr. DR further placed her strong reliance on the order of Ld. CIT(A) and requested to uphold the same.

7. We have considered the rival submissions, perused the material available on record *inter alia* affidavit of assessee and order of the revenue authorities. On perusal of the Form No. 35 of the assessee, it is evident that for communication through email, assessee has opted "No", the extract of Form 35 of the assessee is culled out as under:

FORM NO. 35 [See rule 45]

Appeal to the Commissioner of Income-tax (Appeals)

e-Filing Anywhere Anytime
Income Tax Department, Government of India

Personal Information :	
Name of Entity	SAPURAN KHANDELWAL
PAN	CELPK3429Q
TAN	-
Address	H. NO. 235, VILLAGA BORIYAKALA, POST SEJBAHARRaipur, MANA CAMP, , , ,
Mobile No.	9827492927
STD code	
Landline No.	
Email Address	amol2015rpr@gmail .com
Whether notices/communication may be sent on email?	No

8. On perusal of order of Ld. CIT(A), it is emanating that issues raised by the assessee are decided against the assessee in absence of non-prosecution by the assessee, while the assessee was called for hearing on 26.09.2024, 07.10.2024 and 15.10.2024 by the Ld. CIT(A), but the assessee never responded towards such opportunities. Adverting to the contentions raised by the Ld. AR, referring to the affidavit of the assessee that the assessee has not received any notice issued u/s 250 by post, the assessee in Form No. 35 have requested for no communication through email, as the assessee is not acquainted with system of emails, also the assessee had

never received the notice for reopening u/s 148. Considering the aforesaid facts and circumstances, as an ex-parte order is passed by the Ld. CIT(A) and apparently it is the fact that the assessee had never put to notice though a mode preferred by him by the office of Ld. CIT(A), therefore, following the principle of natural justice, we find it appropriate to restore this matter back to the file of Ld. CIT(A), as fairly requested by the Ld. AR on behalf of the assessee.

9. Needless to say that assessee herein shall be provided with reasonable opportunity of being heard in the set aside appellate proceedings.

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

Order pronounced in the open court on 31/01/2025.

Sd/-
(RAVISH SOOD)
न्यायिक सदस्य / JUDICIAL MEMBER
रायपुर/Raipur; दिनांक Dated 31/01/2025
Vaibhav Shrivastav

Sd/-
(ARUN KHODPIA)
लेखा सदस्य / ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant- Sapuran Khandelwal
2. प्रत्यर्थी / The Respondent- ITO, Ward-4(1), Raipur
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

// सत्यापित प्रति True copy //

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)
आयकर अपीलीय अधिकरण, रायपुर/ITAT, Raipur