

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH : NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER
AND
SHRI KHETTRA MOHAN ROY, ACCOUNTANT MEMBER

ITA.No.585/NAG./2024
Assessment Year 2016-2017

Ashish Tarunkumar Doshi, Hapy Home, Rajendra Nagar, Dhamangoan Road, YAVATMAL – 445 001. Maharashtra. PAN AROPD5284G	vs.	The Income Tax Officer, Ward-1, Aaykar Bhavan, Patrakar Colony, Darwha Road, YAVATMAL-445 001. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri P.M. Gandhi, C.A.
For Revenue :	Shri Abhay Y. Marathe, Sr. DR

Date of Hearing :	28.01.2025
Date of Pronouncement :	04.02.2025

ORDER

PER V. DURGA RAO, J.M. :

This appeal has been filed by the assessee against the order dated 03.10.2024, of the learned CIT(A)-National Faceless Appeal Centre [in short “NFAC”], Delhi, relating to assessment year 2016-2017.

2. Facts of the case, in brief, are that the assessee is an and did not file his return of income for the impugned assessment year

2016-2017. Based on the specific information with the Department, the case of the assessee was selected for scrutiny u/sec.147 of the Act, after taking necessary approval from the Competent Authority with respect to cash deposit to the tune of Rs.58,44,620/- with Allahabad Bank. The Assessing Officer issued notice u/sec.148 of the Act, statutory notice u/sec.142(1) and show cause notice u/sec.144 of the Act calling the assessee to furnish requisite information. Since the assessee did not file any information or documents to substantiate his claim, the Assessing Officer made the entire cash deposit in the bank to the tune of Rs.58,44,620/- as unexplained cash deposit u/sec.69 of the Act and determined the total income of the assessee at Rs.58,44,620/- vide order dated 29.01.2024 passed u/sec.147 r.w.s.144 r.w.s.144B of the Act.

3. On being aggrieved, the assessee carried the matter in appeal before the learned CIT(A). Despite issuing numerous notices, the assessee did not respond to the same to substantiate his case. The learned CIT(A), therefore, confirmed the addition made in the hands of the assessee u/sec.69 of the Act.

4. Aggrieved by the order of the learned CIT(A), the assessee carried the matter in appeal before the Tribunal.

5. During the course of hearing, Learned Counsel for the Assessee submitted that the assessee is not engaged in any business activity nor has any other source of income and hence, no return of income u/sec.139(1) of the Act or in response to notice u/sec.148 of the Act was filed. He submitted that the impugned sum of Rs.58,44,620/- was deposited by other joint owners of the account viz., Mr. Ashish Doshi [Assessee], Mr. Tarun D. Doshi [Having Firm M/s. Dayalal Hukmichand & Sons (HUF)], Sau Nisha t Doshi [Having Firm D H & Sons] and Mr. Jigar T Doshi [Having Firm Tarun Traders] with Allahabad Bank. He submitted that that the joint account holders are engaged in business of traders consumer product and cash collected from business is deposited in the bank account and uses for the payment to vendors. He submitted that the cash deposited by joint owners of account with Allahabad Bank was out of the cash balance which were duly recorded in the audited books of the respective firms. Therefore, the impugned addition is not amounts to undisclosed or unexplained money and the addition made in the hands of the assessee u/sec.69 of the Act is not justified. He accordingly submitted that the addition made by the Assessing Officer and sustained by the learned CIT(A) be deleted.

6. The Learned DR on the other hand relied on the orders of the authorities below. He submitted that the assessee neither filed his return of income nor furnished requisite documents or information as called for by the lower authorities, despite providing numerous opportunities by them. Since, the learned CIT(A) has come to the conclusion that the assessee has nothing to say, he sustained the addition made by the Assessing Officer. He accordingly submitted that the order of the learned CIT(A) be confirmed.

7. We have heard the rival submissions of both the parties, orders of the authorities below and perused the material on record. We find that the learned CIT(A) had dismissed the appeal of the assessee on account of non-prosecution, without deciding the appeal on merits, as contemplated u/sec.250(6) of the Act, according to which, the learned CIT(A) has to decide the appeal on merits even if the assessee did not appear before him. Since the matter in issue has to be verified and examined with respect to the cash deposit of Rs.58,44,620/- made with Allahabad Bank to effect that whether the impugned cash belongs to assessee or the joint account holders and are audited in their respective books of accounts, in the larger of justice, we deem it fit and appropriate to remit the issue back to the

file of learned CIT(A) with a direction to re-decide the matter in issue, after providing adequate opportunity of being heard to the assessee, subject to payment of Rs.10,000/- to the Legal Aid Authority of High Court of Bombay Bench of Nagpur. In the event of failure of the assessee to pay Rs.10,000/- to the Legal Aid Authority of High Court of Bombay Bench of Nagpur, the learned CIT(A) is at liberty to pass appropriate orders as per fact and law. Needless to say, it is the risk and responsibility of the assessee to plead and prove his case before the learned CIT(A) with all relevant documents as called for by him in consequential proceedings. We hold and direct accordingly.

8. In the result, appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open Court on 04.02.2025.

Sd/-
(KHETTRA MOHAN ROY)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Nagpur, Dated 04th February, 2025

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(A), Nagpur concerned.
4.	The D.R. ITAT, Nagpur Bench, Nagpur
5.	Guard File.

//By Order//

True Copy

Sr. Private Secretary : ITAT : Nagpur Bench
NAGPUR.