

**IN THE INCOME TAX APPELLATE TRIBUNAL
ALLAHABAD 'SMC' BENCH, ALLAHABAD
(Heard by DB)**

(THROUGH VIRTUAL / HYBRID MODE)

**BEFORE SH. SUBHASH MALGURIA, JUDICIAL MEMBER
AND
SH. SANJAY AWASTHI, ACCOUNTANT MEMBER**

ITA No.6/Alld/2024
A.Y. 2011-12

Nitrangan Singh Gwal, Resident of Village Rudauli, Near Durga Temple, PO Chunar, Mirzapur, U.P.	vs.	Income Tax Officer, Ward-3(2), Mirzapur
PAN:ANTPG3534H		
(Appellant)		(Respondent)

Assessee by:	None
Revenue by:	(Application)
Date of hearing:	02.12.2024
Date of pronouncement:	02.12.2024

ORDER

PER SH. SANJAY AWASTHI, ACCOUNTANT MEMBER:

This is an appeal arising from an order under section 250 of the Income Tax Act, 1961 (hereinafter the 'Act') passed by Id. CIT(A), NFAC (hereinafter the Id. 'CIT(A) vide order dated 16.11.2023. It is seen that proceedings under section 147 of the Act were initiated on account of a cash deposit of Rs.4542005/- in a savings bank account maintained with ICICI Bank Limited, Mirzapur during F.Y. 2010-11. Accordingly, notice under section 148 of the Act dated 26.03.2018 was issued. It is seen from the record that the proceedings before the Id. AO were conducted in an *ex parte* manner since the assessee, for reasons best known to him, did not comply with any of the notices issued by the Id. AO from time to time.

1.1 On the last date of hearing, the ld. DR filed an application for adjournment. This application for adjournment has been rejected since this matter was adjudicable on the basis of material on record.

2. Before the ld. CIT(A) also, the appellant did not make any compliance to the notices fixing the case for hearing. It is recorded in para 4.1, as to the number of efforts made by the office of ld. CIT(A) to fix the case for hearing and how there was no response from the side of the assessee. Before us, the appellant has filed a short paper book in which it is seen that there is an affidavit in which the assessee has pleaded ignorance about the source of the said deposit as under:-

AFFIDAVIT

38A4 100310

I, NITRANGAN SINGH GWAL (PAN No ANTPG 3534 H), son of Mr. Somaru Yadav Resident of Village Rudauli, Near Durga Temple, PO Chunar, Mirzapur (U.P) – 231 304, do hereby solemnly affirm on oath as under :-

1. That I am an Indian National
2. That I have neither deposited nor authorized any one on my behalf to deposit Rs. 10,37,505/- and Rs. 34,97,000/- in my ICICI Bank Account on 03.11.2010 & 01.11.2010 respectively
3. That I proposed to close the ICICI Bank account and handed the unused Cheque Leaf and ATM Card to one of the ICICI representatives, wherein all the unused cheque leaf were blank and not signed by me whereas the first cheque of unused leafs was cancelled and signed by me. The first cheque of unused leafs was cancelled and signed in compliance of directions of ICICI representative.
4. That the utilization of the deposited cash is also without my consent/ knowledge/ information in any manner whatsoever.
5. That I have been subjected to fraudulent activities in my Bank Account, for which I am not responsible in any manner whatsoever.
6. That no activity in my Bank Account has been carried out by me/ under my instruction post July 2010

VERIFICATION

I, NITRANGAN SINGH GWAL (PAN No ANTPG 3534 H), son of Mr. Somaru Yadav Resident of Village Rudauli, Near Durga Temple, PO Chunar, Mirzapur (U.P) – 231 304 do hereby swear and confirm that the afore mentioned contents are true and correct to the best of my knowledge and belief and nothing has been concealed thereof.

Nitrangan Singh Gwal

Nitrangan Singh Gwal

NITRANGAN SINGH GWAL

DEPONENT

Verified on 19th Day of December 2019 at Varanasi

Nitrangan Singh Gwal

Nitrangan Singh Gwal

2.1 Apart from this affidavit, the appellant has also filed letters written to the Branch Manager, ICICI Bank, Laxa Branch, Varanasi about alleged fraudulent activity in his bank account.

3. The ld. CIT DR vehemently argued that an assessee who has not complied to hearing notices before the authorities below should not be allowed any relief.

4. We have considered the orders of authorities below as also the documents contained in the paper book filed by the assessee and also the submissions of the ld. CIT DR. It is clear from a close reading of the documents that in the present state and considering the facts and circumstances, the assessee deserves a chance to prove the bona fides of his claim, of fraudulent activity in his bank account, before the ld. AO. Accordingly, giving the benefit of doubt to the appellant, we deem it fit to remand this matter back to the file of the ld. AO for fresh adjudication, after affording an opportunity of being heard. Needless to say, the appellant would do well to present the facts of his case and enable the ld. AO to assess his correct income.

5. In the result, the appeal is allowed for statistical purposes.

Order pronounced on 02.12.2024 at Allahabad, U.P.

Sd/-
[SUBHASH MALGURIA]
JUDICIAL MEMBER

Sd/-
[SANJAY AWASTHI]
ACCOUNTANT MEMBER

DATED: 02/12/2024

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Copy forwarded to:

1. Appellant –
2. Respondent –
3. CIT DR , ITAT,
4. CIT,
5. The CIT(A)

By order

Sr. P.S.