

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

**BEFORE SH. UDAYAN DAS GUPTA, JUDICIAL MEMBER  
AND SH. KRINWANT SAHAY, ACCOUNTANT MEMBER**

**I.T.A. No.363/Asr/2023  
Assessment Year: 2017-18**

Sh. Rohit, 62-Shri Ram Avenue Majitha Road, Amritsar. [PAN:BAUPR6167C] <b>(Appellant)</b>	Vs.	ITO, Ward-4(4), Amritsar.  <b>(Respondent)</b>
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<b>Appellant by</b>	Sh. P. N. Arora, Adv
<b>Respondent by</b>	Mrs. Neelam Sharma, Sr. DR

<b>Date of Hearing</b>	26.12.2024
<b>Date of Pronouncement</b>	10.02.2025

**ORDER**

**Per: Udayan Das Gupta, JM**

This appeal is filed by the assessee against the order of the CIT(A) NFAC, passed u/s 250 of the Act 1961 dated 07.11.2023 which has emanated from the order of the AO passed u/s 144 of the Act dated 18.12.2019 ITO Ward 4(4), Amritsar.

2. The grounds of appeal preferred by the assessee as per memorandum of appeal are as under;

“1. That the assessment order as well as the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NF AC), Delhi, thereby confirming the order of the Assessing Officer are both against the facts of this case and are untenable under the law.

2. That no reasonable and proper opportunity of being heard was allowed by the Assessing Officer before passing the said order. As such the assessment order passed is bad in the eyes of law and the same is liable to be cancelled and further the order passed by the worthy CIT(A) thereby confining the order of the AO is also bad in the eyes of law and the same is also liable to be cancelled.

3. That the Ld. CIT(A) has grossly erred in passing ex-parte order without appreciating the facts of this case and without allowing any opportunity of being heard. The CIT(A) did not appreciate that no notice was ever served on the assessee. Otherwise I would have complied the notice if I received the same. As such the ex-parte order passed is bad in the eyes of law and the same is liable to be cancelled.

4. That the AO has grossly erred in making the addition of Rs. 11,52,000/- thereby invoking the provisions of section 69A. The provisions of section 69A are not at all applicable to the present facts and circumstances of the case. Similarly the worthy CIT(A) has also grossly erred in confining the addition of Rs. 11,52,000/- made by the AO.

5. *That the CIT(A) did not appreciate that the assessee was carrying on business and all these transactions have taken place in the bank. The CIT(A) should not have confirmed the addition made by the AO. The CIT(A) did not appreciate that merely because there are bank deposits does not amount to concealed income or the income outside the books of accounts. As such the addition confirmed by the CIT(A) may be deleted. Alternatively, without prejudice to the above, the addition made is very high & excessive.*
6. *That the AO has charged interest u/s 234A and 234B without affording any opportunity of being heard. Similarly, the CIT(A) has also grossly erred in confining the same. As such the interest charged may be deleted. Alternatively, the interest charged is very high & excessive.*
7. *That any other ground of appeal which may be argued at the time of hearing of the appeal.”*

3. Brief facts of the case are that the assessee has deposited an amount of Rs.11,52,500/- in PNB Account No. XXXXXXXX0065 during the F.Y. 2016-17 and the entire deposit was made during demonetization period. In absence of any return on record, the AO initiated proceedings by issue of notice u/s 142(1), calling for the return of income. But the assessee has not filed any return in response to such notice u/s 142(1) and has not complied with subsequent notices and queries raised by the AO. As such, the AO completed the proceedings ex parte u/s 144 on

a total income of Rs.11,52,500/- u/s 69A of the Act and applying tax rate as prescribed u/s 115BBE of the Act.

4. The matter was carried in appeal before the Id. CIT(A) and the Id. CIT(A) has also dismissed the appeal in absence of any written submissions or materials or any documentary evidences being filed before him.

4.1 It is also seen from the appellate order that opportunity of hearing was provided on three different dates but there was no compliance on the part of the assessee and neither any application for adjournment was filed.

4.2 In course of hearing before the Tribunal the Id. AR of the assessee submitted that no notice u/s 142(1) of the Act was served on the assessee and in absence of any notice being served the assessee never submitted any return of income because the assessee's income was below the taxable limit. He further argued that as per standard operating procedure (SOP) laid down by the CBDT Vide letter No. F.225/363/2017-(ITA)-II Delhi dated 15.11.2017 notice u/s 142(1) should have been issued electronically as well as through post and the evidence of service of notice alongwith the postal remarks should be prescribed accordingly. He further stated that as per the SOP if notice could not be served electronically or through post then the notice should have been served personally through departmental notice server.

4.3 In the instant case, the ld. AR submitted that no notice u/s 142(1) has been received by the assessee because nothing has been served through post or through electronic mail and as such, he argued that the assessee was prevented by sufficient cause from appearing before the AO.

4.4 Regarding the appeal proceedings it is submitted by the ld. AR that it is not specifically mentioned in the body of the appellate order as to how the notice of hearing has been issued to the assessee because his contention is that no notice has been received in the e-mail provided in Form No. 35. Moreover, he relied on the judgment of the Amritsar Bench in the case of *Prabhat Enterprises vs. ITO, in ITA No.340 & 341/Asr/2023 order dated 28.05.2024* to put forth his argument that in absence of proper service of notice of hearing, the matter should be remanded back to the file of the AO to pass a de novo fresh assessment order after considering all the materials on record.

5. On the other hand, the ld. DR placed reliance on the order of the ld. CIT(A) but he could not clarify as to which e-mail id, the notice from the first appellate authority has been issued to the assessee.

6. We have heard the rival submissions and considered the material on record. We find that in the instant case, ex parte orders has been passed at both the lower stages, and the assessee wants an opportunity to explain his sources of cash deposit, in bank A/c. As such, in the principles of natural justice, considering the

factual aspects of the matter, the appellant assessee should get an opportunity to explain and substantiate the source of cash deposit in his bank account. Accordingly, we restore the matter back to the file of the AO to pass a fresh assessment order after considering all the submissions and documentary evidences and materials that may be furnished by the assessee in order to establish his case, and to establish the source of cash deposited in bank during demonetization period. Needless to say, the assessee will get proper opportunity of being heard.

7. In the result, the appeal of the assessee bearing **ITA No. 363/Asr/2023** is allowed for statistical purposes.

**Order pronounced on 10.02.2025 under Rule 34(4) of the Income Tax Appellate Tribunal Rules 1963.**

Sd/-

**(KRINWANT SAHAY)**  
**Accountant Member**  
AKV

Sd/-

**(UDAYAN DAS GUPTA)**  
**Judicial Member**

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy  
By order