

IN THE INCOME TAX APPELLATE TRIBUNAL "PATNA BENCH" PATNA
(VIRTUAL HEARING AT KOLKATA)

SHRI DUVVURU RL REDDY, VICE PRESIDENT
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 319/Pat/2024
Assessment Year: 2017-18

Dinesh Kumar,
0, Mohamadpur, Asthawan,
Nalanda, Bihar - 803101
[PAN: AJMPK3833E] **Appellant**

vs.

Income Tax Officer,
Ward 2(4), Bihar Sharif **Respondent**

Appearances by:

Assessee represented by : None

Department represented by : Sh. Ashwani Kr. Singal, JCIT

Date of concluding the hearing : 12.02.2025

Date of pronouncing the order : 17.02.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. The present appeal emanates from order u/s 250 of the Income Tax Act, 1961 (hereafter 'the Act') dated 14.02.2024, passed by the Ld. Commissioner of Income Tax (Appeals) [hereafter 'the Ld. CIT(A)'], National Faceless Appeal Centre (NFAC), Delhi.

1.1 In this case, it is seen that vide order dated 24.12.2019, the Learned. AO passed an order under Section 144 of the Act by adding an amount of Rs. 1,13,14,000/- on account of allegedly unexplained cash deposits and other entries in his bank account, under Section 69A of the Act.

Admittedly, there was no compliance on the part of the assessee before the Ld. AO in this matter.

1.2 Before the Ld. CIT(A) also, there was no compliance as many as three notices issued for hearing. Thereafter, the Ld. CIT(A) proceeded to confirm the action of Ld. Assessing Officer.

2. Aggrieved with this action, the assessee has filed the present appeal with the following grounds of appeal:

“1. For that the Ld. CIT(A), NFAC has erred in affirming the order of the Assessing Officer in an ex-parte order and thereby the income assessed by the Assessing Officer at Rs. 1,13,14,000/- stands affirmed.

2. For that the Ld. CIT(A), NFAC has erred in passing ex-parte order without allowing any opportunity of hearing.

3. For that the Ld. CIT(A), NFAC has erred in not following u/s 250(2) read with Sub-section (6B) and the guidelines prescribed in the Faceless Appeal Scheme, 2021 vide notification dated 28.12.2021.

4. For that the Ld. CIT(A), NFAC has failed to appreciate that there was no communication of uploading of any of the notices either on the e-mail or on the registered mobile number.

5. For that sustenance of addition of Rs.1,13,14,000/- (Rs.32,00,000/- plus Rs.81,14,000/-) on account of deposit in Bank is wrong, illegal and unjustified in the facts and circumstances of the appellant's case.

6. For that the Ld. CIT(A), NFAC has erred in approving the order of the Assessing Officer as far as addition of Rs.81,14,000/- (included in sum total of Rs. 1,13,14,000/-) for which there was no mandate in CASS and no permission/sanction/approval from higher authorities were taken as mandated in administrative instruction /circular of CBDT dated 30/11/2017 in F. No. DGIT(Vig.)/HQ/SI/2017-18.

7. For that the Ld. CIT(A), NFAC has erred in not allowing the benefit of withdrawals from the very same Bank account which were utilized in making payments to suppliers against the purchases so made.

8. For that the Ld. CIT(A), NFAC has erred in upholding invocation of Section-115BBE and consequentially taxation @60%.

9. For that the Ld. CIT(A) has failed to appreciate that the appellant's income has not exceeded the maximum amount chargeable to tax and hence, there was no return was filed for the year under consideration.

10. For that the appellant reserves its right to furnish detailed written submission along with documents and evidences on or before date of hearing.

11. For that the appellant may be given opportunity of personal hearing physically/virtually at the time of hearing of the appeal.

12. For that the whole order is bad in fact and law of the case and is fit to be restored back to the file of Ld. CIT(A), NFAC.

13. For that the other grounds, if any, shall be urged at the time of hearing of the appeal.

2.1 On the last date of hearing, none attended and even on one more previous date none had attended on behalf of the assessee. Accordingly, it is felt that no worthwhile purpose would be served in keeping this matter pending and hence this appeal is being disposed of with the assistance of Ld. DR.

2.2 With the help of Ld. DR, we have perused the orders of authorities below and also gone through the submissions filed along with the form of appeal. The assessee has stated that the entire quantum of impugned deposits are from the sale of liquor in the state of Chhatisgarh. The assessee has also claimed that the whole process of assessment by the Ld. AO was in contravention of CBDT's Circulars pertaining to "Operation Clean Money". The assessee has also stated that neither of the authorities below gave any worthwhile opportunity to present the case.

2.2. It is clear that neither of the authorities below have had the benefit of any explanation etc. by the assessee for justifying the impugned amounts. In spite of this record of poor persuasion before the authorities below, it is felt that in the interest of substantive justice, the assessee should have another chance of proving the impugned transactions and hence, we remand the matter back to the file of Ld. CIT(A) for fresh adjudication.

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

Order pronounced in the court on 17.02.2025

Sd/-
[Duvvuru RL Reddy]
Vice President

Sd/-
[Sanjay Awasthi]
Accountant Member

Dated: 17.02.2025
AK, PS

Copy of the order forwarded to:

1. Dinesh Kumar
2. Income Tax Officer, Ward 2(4), Bihar Sharif
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches