

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

SHRI SANJAY GARG, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 417/PAT/2024
Assessment Year: 2017-18

Smt. Usha Keshri,
Badi, Durga Asthan, Road,
Saharsa - 852201
[PAN: AEAPK5666G] **Appellant**

vs.

Income Tax Officer,
Ward-3(4), Saharsa,
Income Tax Office,
Saharsa - 852201 **Respondent**

Appearances by:

Assessee represented by : None

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

Date of concluding the hearing : 21.01.2025

Date of pronouncing the order : 19.02.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. This appeal arises from order dated 08.04.2024 passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter "the Ld. CIT(A)] under Section 250 of the Income Tax Act, 1961 (hereafter "the Act").

1.1 In this case, the Assessing Officer passed an order dated 13.12.2019 under Section 144 read with section 147 of the Act. The Assessing Officer had information regarding deposit of Rs. 10,00,000/- during

demonetisation period. In response, notice under Section 148 of the Act dated 23.05.2018, the assessee did not file any return of income. Thereafter, notice under Section 142(1) of the Act was issued, asking for details of deposits in the bank. In spite of best efforts, the Ld. Assessing Officer could not obtain any worthwhile compliance from the assessee and proceeded to add Rs. 10,00,000/- under Section 69A of the Act and made another addition of Rs. 85,979/- on presumptive basis on account of deposits in bank.

1.2 This matter was carried in appeal before Ld. CIT(A) where the major addition of Rs. 10,00,000/- was upheld considering that the Ld. CIT(A) was not satisfied with the explanation offered by the assessee through written submissions. However, there was partial relief regarding the other addition.

1.3 Further, aggrieved with this action, the assessee has filed the present appeal with the following grounds:

“1. That in any view of the matter assessment made on income of Rs. 10,85,979/- by order dated 13.12.2019 u/s 144 r.w.s. 147 of the Act is highly unjustified.

2. That in any view of the matter the proceeding as initiated u/s 147 of the Act is not valid proceeding nor any such notice u/s 148 of the Act was received by the assessee nor assessee was aware about said proceeding hence entire action is bad in law.

3. That in any view of the matter addition of Rs. 10,00,000/- on account of cash deposit in bank made by the assessee during demonetization period added u/s 69A of the Act r.w.s. 115BBE as made by the assessing officer and confirmed by CIT Appeal is highly unjustified.

4. That in any view of the matter during appellate proceeding the assessee explained the source of cash deposit made by the assessee amounting to Rs. 10,00,000/- which was out of contribution made by family members for purchase of property and in this regard necessary evidences were filed but no cognizance was given to the details filed and thus addition confirmed by CIT Appeal is highly unjustified.

5. That in any view of the matter finding and observation of the both the two lower authorities with regard addition of Rs. 10,00,000/- is totally incorrect and contrary to the actual facts of the case.

6. That in any view of the matter the assessee reserves her right to take any fresh ground of appeal before hearing of appeal.

It is therefore respectfully prayed that following ground of appeal may kindly be adjudicated and relief be allowed accordingly.”

2. On the last date of hearing, none appeared on behalf of the assessee, however, it was decided to proceed ahead with the adjudication with the help of Ld. DR. Before us, the Ld. DR took us through the detailed findings of the Ld. AO and also the findings of Ld. CIT(A). The Ld. DR thereafter supported the orders of authorities below.

3. Right at the outset, the averments contained in the statement of facts filed with the form of appeal deserves to be extracted for reference:

“That the assessee is an individual and is senior citizen lady having income from other sources and assessed to tax regularly. For the year under consideration proceeding u/s 147 of the Act was initiated on the allegation that the assessee has deposited cash in bank account to the tune of Rs. 10,00,000/- during demonetization period which remains unexplained as alleged. Thereafter notice u/s 148 of the Act was issued but the assessee was not aware about any such service of notice and ultimately ex-parte assessment was framed by order dated 13.12.2019. Against the assessment order first appeal was filed before CIT Appeal but later on the same was transferred under NFAC who vide order dated 08.04.2024 decided the appeal and confirm the addition of Rs. 10,00,000/-. During appellate proceeding the assessee filed submission dated 15.03.2024 along with necessary details confirming the source of deposit of Rs. 10,00,000/- by the assessee. In reality the said amount was provided by assessee husband and her son and in this regard copy of ITR of family members, bank statement and other details were filed but no cognizance was given to the details filed and in general and casual manner the evidence were ignored and addition made which is highly unjustified. In fact the amount was provided by assessee family members for purchase of property as evident from the bank statement itself. Thus, the assessee duly explained the source of cash deposit but still addition was made and confirmed by the both the two lower authorities which is highly unjustified and thus being aggrieved with the order the assessee is filling appeal on the following grounds for adjudication.”

3.1 We have carefully considered the facts before us and the averments of Ld. DR. We are inclined to be persuaded by the submission of assessee that due to communication gap between the income tax department and the assessee, she could not make a viable presentation of facts before either of the authorities below. Accordingly, we remand this matter back to the file of Ld. AO for fresh assessment on the basis of facts that will

need to be presented before him by this assessee. Needless to say, the Ld. AO would give an adequate opportunity of being heard to the assessee.

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

Order pronounced in the court on 19.02.2025

Sd/-

[Sanjay Garg]
Judicial Member

Sd/-

[Sanjay Awasthi]
Accountant Member

Dated: 19.02.2025
AK, PS

Copy of the order forwarded to:

1. Smt. Usha Keshri
2. Income Tax Officer, Ward-3(4), Saharsa
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches