

**आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE**

**BEFORE SHRI R.K. PANDA, VICE PRESIDENT**  
**AND**  
**MS. ASTHA CHANDRA, JUDICIAL MEMBER**

**आयकर अपील सं. / ITA No.2493/PUN/2024**  
**Assessment year : 2015-16**

Suresh Gulabchand Oswal, C 25, Indraprastha Complex, 589, Rasta Peth, Pune - 411011  PAN : AAFPO8884P	<b>Vs.</b>	The Income Tax Officer, Ward - 6(3), Pune
<b>अपीलार्थी / Appellant</b>		<b>प्रत्यर्थी / Respondent</b>

Assessee by :	Shri Sarvesh Kandelwal
Department by :	Shri Arvind Desai
Date of hearing :	18-02-2025
Date of Pronouncement :	28-02-2025

**आदेश / ORDER**

**PER ASTHA CHANDRA, JM :**

The appeal filed by the assessee is directed against the order dated 30.10.2024 of the Ld. Commissioner of Income Tax (Appeals), National Faceless Centre (NFAC), Delhi [**"CIT(A)"**] pertaining to Assessment Year (**"AY"**) 2015-16.

2. The assessee has raised the following grounds of appeal:-

- “1. On the facts and circumstances prevailing in the case and as per provisions & scheme of the Act it be held that the assessee sought for adjournment, especially in response to the notice dated 14/10/2024, as the last week of October was Diwali Festival and also the consultant was busy with the compliance of income tax return filing. One more opportunity may please be granted.
2. On the facts and circumstances prevailing in the case and as per provisions & scheme of the Act it be held that the additions of Rs. 10 Lakhs made on account of cash credit raised from Mr. Bharkumar Bhagwandas Madhavi & Mrs. Amita Bharat Madhavi, is without properly considering the evidence place on record & the same is not in accordance with the provisions of the Act. The additions so made be deleted.
3. The appellant prays to be allowed to add, amend, modify, rectify, delete, or raise any grounds of appeal at the time of the hearing.”

3. Briefly stated, the assessee is an individual. For AY 2015-16, he filed his return on 31.03.2017 declaring income of Rs.26,65,300/-. The return was processed u/s 143(1) of the Income Tax Act, 1961 (**the "Act"**). Later on, the case was selected for limited scrutiny under CASS. Statutory notice was

accordingly issued and duly served upon the assessee under section 143(2) of the Act. During the course of assessment proceedings, the Ld. Assessing Officer (“AO”) found that the assessee has purchased an immovable property for a consideration of Rs. 3,06,00,000/-. The market value for stamp duty purposes was taken at Rs. 5,53,58,000/-. The case was thereafter referred to the Distt. Valuation Officer at the request of the assessee. The DVO determined the FMV of the said property at Rs. 3,55,33,000/- which was accepted by the Ld. AO. The assessee was therefore asked to explain as to the 50% of the assessee’s share in the difference of Rs. 49,33,000/- i.e. Rs. 24,66,500/- should not added to his total income under the provisions of section 56(2)(vii)(b)(ii) of the Act. The assessee was also asked to explain the source of investment of Rs.1,69,75,750/- in the purchase of the said property. In response thereto, it was submitted that the assessee procured loan of Rs. Rs. 10,00,000/- from Mr. & Mrs. Bharat Kumar Bhagwandas Madhavi and furnished documentary evidence as called upon by the Ld. AO in support of his claim such as PAN, confirmation letter, bank statements of the lender(s) etc. However, the submissions of the assessee were not found satisfactory by the Ld. AO and he took into account the receipt of Rs. 10,00,000 only from Mr. Bharat Kumar Bhagwandas Madhavi. He, therefore concluded that the assessee failed to prove the genuineness of the transaction and creditworthiness of the lender and added back. Rs. 10,00,000/- to the income of the assessee as unexplained cash credit under section 68 the Act. The assessment was completed on 20.12.2017 u/s 143(3) 7 of the Act on total income of Rs.61,31,800/- including therein –(i) addition of Rs.24,66,500/- under the provisions of section 56(2)(vii)(b)(ii) of the Act and addition of Rs.10,00,000/- u/s 68 of the Act.

4. The assessee carried the matter in appeal before the Ld. CIT(A) challenging the above addition of Rs. 10,00,000/- under section 68 of the Act, made by the Ld. AO.

4.1 Before the Ld. CIT(A), it was submitted that the assessee procured loan of Rs. 6,00,000/- from Mr. Bharat Kumar Bhagwandas Madhavi and Rs. 4,00,000/- from Mrs. Amita Bhartkumar Madavi, totaling to Rs. 10,00,000/-. The assessee had submitted PAN, of the respective people as well as copies of their bank passbooks and confirmation letter before the Ld. AO, but the Ld. AO made the addition, without making any further enquiries, if needed, and that too on account of receipt of the entire loan Rs. 10,00,000/- from one party i.e. Mr. Bharat Kumar Bhagwandas Madhavi and non-submission of the bank

statements of the lenders, which is an incorrect observation made by the Ld. AO.

4.2 The Ld. CIT(A) upheld the order of the Ld. AO by passing the impugned order on account of non-compliance of notice(s) of hearing issued to the assessee (para 5.2 and 5.3 of his appellate order refers).

5. Aggrieved, the assessee filed appeal before the Tribunal and all the grounds of appeal relate thereto.

6. The Ld. AR submitted that there was non-compliance of notices before the Ld. CIT(A) for the reason that these were served on the email id which is not in regular use by the assessee. The first three notice(s) issued by the Ld. AO therefore remained unattended unintentionally by the assessee. As regards the last and the fourth notice issued by the Ld. CIT(A) on 14.10.2024, the assessee sought adjournment online under the tab of seek / view adjournment but the same was not taken into consideration by the Ld. CIT(A). In support thereof, an affidavit of the assessee stating the above reasons therein was filed before the Tribunal. The Ld. AR also placed on record the screen shot of the e-portal evidencing the online adjournment sought by the assessee before the Ld. CIT(A). He therefore requested that the matter may be set aside to the file of the Ld. CIT(A) to decide the issue afresh on merits.

7. The Ld. DR, on the other hand, supported the order of the Ld. CIT(A) and submitted that the assessee was given ample opportunities by the Ld. CIT(A), however, the assessee failed to avail the same.

8. We have considered the rival submissions and perused the records. Before us, the Ld. Counsel of the assessee has submitted that the non-compliance before the Ld. CIT(A) was unintentional and it happened due to the reasons stated above. It is also brought to our notice that the assessee sought adjournment to the last notice dated 14/10/2024, for the reason that the last week of October was Diwali Festival and also the consultant was busy with the compliance of income tax return filing. It is also the case of the assessee that the Ld. AO made the impugned addition of Rs. 10,00,000/- without properly considering the evidence placed on record. We observe that the Ld. CIT(A) has passed the ex-parte order in concurrence of the order of Ld. AO without himself going into the merits of the case. Thus, in our view, his order is in violation of the provisions of section 250(6) of the Act. On the facts and in the circumstances of the case, we deem it fit, in the interest of justice and fair play,

to set aside the order of the Ld. CIT(A) and restore the matter back to his file for adjudication afresh and pass speaking order on merits after allowing reasonable opportunity of being heard to the assessee. The assessee shall provide the requisite support in terms of submitting the relevant documents / evidence as may be required/ called upon and may also file any other evidence as it deems fit, to substantiate his case before the Ld. CIT(A). The assessee is also directed to provide proper email id to the Department for receiving notice of hearing from the ITBA portal and to remain vigilant and not to seek adjournment on the appointed date under any pretext, failing which the Ld. CIT(A) shall be at liberty to pass appropriate order as per law. We direct and order accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

9. In the result, the appeal of assessee is treated as allowed for statistical purposes.

**Order pronounced in the open court on 28<sup>th</sup> February, 2025.**

Sd/-  
(R.K. Panda)  
**VICE PRESIDENT**

Sd/-  
(Astha Chandra)  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 28<sup>th</sup> February, 2025.

**3आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,  
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.  
//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune