

**IN THE INCOME TAX APPELLATE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD**

**BEFORE SHRI SUBHASH MALGURIA, JUDICIAL MEMBER  
AND  
SHRI NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

I.T.A. No.159/Alld/2024  
Assessment Year:2017-18

Shri Vishvanath Badanpur, Kadipur, Ichauli, Kaushambi. PAN:AYYPV3834F (Appellant)	Vs.	Income Tax Officer-2(5), Kaushambi.  (Respondent)
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Appellant by	Shri Praveen Godbole, C.A.
Respondent by	Shri A. K. Singh, Sr. D.R.
Date of hearing	25/02/2025
Date of pronouncement	25/02/2025

**ORDER**

**PER SUBHASH MALGURIA, J.M.**

This appeal vide I.T.A. No.159/Alld//2024 has been filed by the assessee against the impugned appellate order dated 25/06/2024 (DIN & Order No.ITBA/APL/S/250/2024-25/1066012408(1) of learned Commissioner of Income Tax (Appeals). In this appeal, assessee has raised the following grounds:

- "1. *That in any view of the matter assessment framed u/s 147 r.w.s. 144 of the I.T. Act and order dated 27.12.2019 of income of Rs.16,05,362/- is bad both on the facts and in law.*
2. *That in any view of the matter the Id CIT(A) as well as Assessing Officer was not correct in passing the order ex-parte without providing reasonable opportunity to the assessee nor the assessee was aware about passing of such order since the assessee is living in a remote area where there is no internet facility hence non-compliance was under unavoidable circumstances.*
3. *That in any view of the matter addition of Rs.16,05,362/- is highly unjustified and the assessing officer simply applied net rate of 8% on total receipts of the assessee at Rs.2,00,67,030/- which is highly unjustified and the net rate as applied simply on presumption without bringing any comparable case on record hence entire action is bad in law.*
4. *That in any view of the matter finding and observation of the assessing officer with regard to addition of Rs.16,05,362/- is totally incorrect and contrary to the actual facts of the case."*

2. The facts of the case, in brief, are that the assessee is an individual and engaged in fisheries business on commission. For the year under consideration, the case of the assessee was selected for scrutiny regarding cash deposited by the assessee during demonetization period amounting to Rs.14,58,500/-. The Assessing Officer issued several notices u/s 142(1) of the Act but there was no response from the assessee's side. Ultimately, the Assessing Officer passed ex-parte assessment qua the assessee and entire cash deposited during the year was considered as turnover of the assessee and accordingly net profit rate of 8% was applied and addition was made. Being aggrieved, the assessee carried the matter in appeal before the learned CIT(A). During the course of appellate proceedings, the learned CIT(A) issued notices dated 25/12/2020, 19/03/2021, 14/06/2021,

09/08/2021 and 14/06/2024 but there was no response from the assessee's side. Ultimately, the learned CIT(A), after considering the materials available on record, passed ex-parte order and dismissed the appeal filed by the assessee. Now the assessee is in appeal before the Income Tax Appellate Tribunal.

3. At the time of hearing before us, the learned Counsel for the assessee submitted that learned CIT(A) has not decided the issues on merits and instead the appeal of the assessee was dismissed taking adverse view of non compliance of notices of hearing issued by him. He also submitted that the learned CIT(A) as well as Assessing Officer was not correct in passing the ex-parte order without providing reasonable opportunity of being heard to the assessee. He further submitted that the issue regarding merits of the case should be restored back to the file of the learned CIT(A) because the learned CIT(A) is duty bound to pass speaking order on merits. The learned Sr. Departmental Representative for Revenue expressed no objection to this.

4. We have heard the rival parties and have gone through the material placed on record. We noted that learned CIT(A) has passed ex-parte order as according to him, nobody has appeared on the 25/12/2020, 19/03/2021, 14/06/2021, 09/08/2021 and 14/06/2024 when the appeal was fixed for hearing before him. From the order of CIT(A), it is apparent that the CIT(A) had issued various notices to the assessee however, neither anybody appeared nor filed written submissions and ultimately the CIT(A) passed the ex-parte order. However, we find that learned CIT(A) has not decided the appeal on merits. The learned CIT(A) is duty bound to decide the issues on merits.

5. In view of the foregoing and as representatives of both sides are in agreement on this; we set aside the impugned appellate order dated 25/06/2024 of the learned CIT(A) and we direct the learned CIT(A) to decide the appeal through de novo order which should be speaking order on merits and in accordance with law after providing reasonable opportunity to the assessee and ensuring due compliance of requirements u/s 250(6) of the IT Act. The assessee is also directed to be present on the date of hearing fixed by learned CIT(A).

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

(Order pronounced on 25/02/2025 in accordance with Rule 34(4) of Income Tax (Appellate Tribunal) Rules, 1963

Sd/.  
**(NIKHIL CHOUDHARY)**  
**Accountant Member**

Sd/.  
**(SUBHASH MALGURIA)**  
**Judicial Member**

Dated:25/02/2025

\*Singh

**Copy of the order forwarded to :**

1. The Appellant
2. The Respondent
3. Concerned CIT
4. The CIT(A)
5. D.R. ITAT, Lucknow

Asstt. Registrar