

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

**BEFORE SHRI SUBHASH MALGURIA, JUDICIAL MEMBER
AND SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

I.T.A. No.85/Alld/2024
Assessment Year:2007-08

Smt. Veena Singh, W/o Shri Sughar Singh, Ajhuwa Bazar, Ajhuwa, Kaushambi. PAN:AYTPS5879A	Vs.	A.C.I.T., Circle-1, Allahabad
(Appellant)		(Respondent)

Appellant by	Shri Praveen Godbole
Respondent by	Shri A. K. Singh, Sr. D.R.
Date of hearing	04/12/2024
Date of pronouncement	05/02/2025

ORDER

PER SUBHASH MALGURIA:J.M.

This appeal has been filed by the assessee for assessment year 2007-08 against impugned appellate order dated 25/04/2024 (DIN & Order No.ITBA/NFAC/S/250/2024-25/1064372226(1) of Commissioner of Income Tax (Appeals) ["CIT(A)" for short]. In this appeal the assessee has raised the following grounds:

- "1. That in any view of the matter assessment framed u/s 254/147/144 of the Act by order dated 28.03.2022 determining the income at Rs.19,06,520/- is highly unjustified incorrect and the action of the assessing officer as confirmed by CIT (Appeal) is highly unjustified in the fact and circumstances of the case.*

2. *That in any view of the matter the assessing officer framed the order without providing proper opportunity to the assessee and more so the learned CIT (Appeal) also failed to considered the opportunity issue in proper manner hence confirm the order which is highly unjustified.*
3. *That in any view of the matter the assessee and his family member own substantial agriculture land and agriculture operation going on year after year from a long time as well as in the family there are various business and the assessee husband has sound financial status and thus the deposit of Rs.19,00,000/- in bank from various sources hence addition is unwarranted and both the lower authorities failed to considered the fact in proper manner.*
4. *That in any view of the matter the CIT Appeal is highly unjustified in deciding the appeal ex-parte in the fact and circumstances of the case and the addition of Rs.19,00,000/- is unwarranted and the finding and observation in the order about the source of deposit are contrary to the actual fact of the case.*
5. *That in any view of the matter in the fact and circumstances of the case addition of Rs.19,00,000/- is unwarranted.*
7. *That in any view of the matter charge of penal interest u/s 234A, 234B & 234C are not correct."*

2. The facts of the case, in brief, are that the assessment proceeding u/s 147 r.w.s. 144 of the I.T. Act was completed on 30/03/2015, determining the total income of the assessee at Rs.17,00,000/-. Aggrieved with the assessment order passed by the Assessing Officer, the assessee carried the matter in appeal before CIT(A). The CIT(A) vide order dated 30/10/2019 dismissed the appeal filed by the assessee. Further aggrieved, the assessee filed an appeal before the ITAT against the order passed by the CIT(A). The ITAT, vide order dated 03/02/2021 in ITA No.16/ALLD/2020 set aside the orders of the Assessing Officer & CIT(A) and remitted the matter back to the file of the Assessing Officer for granting one more opportunity of hearing and

directed the Assessing Officer to adjudicate the matter afresh after considering the explanation as well evidences to be filed by the assessee in support of the deposits made in the bank account. The Assessing Officer again made the additions/disallowance against which the assessee filed appeal before the learned CIT(A). Learned CIT(A) issued various notices to the assessee but there was no response from the assessee's side. Ultimately the learned CIT(A) passed an ex-parte order and dismissed the assessee's appeal. Now the assessee is in appeal before the ITAT.

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 further submitted that the issue regarding merits 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 dates 22/09/2023, 23/01/2024, 23/02/2021 and 12/04/2024 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, as provided under section 250(6) of the Act. For ready reference, the provisions of section 250(6) are reproduced as under:

"Section 250

(6) The order of the [Joint Commissioner (Appeals) or the] Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision."

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 25/04/2024 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.

(Orders pronounced on 05/02/2025 in accordance with Rule 34(4) of the I.T.A.T. Rules)

Sd/.
(SANJAY AWASTHI)
Accountant Member

Sd/.
(SUBHASH MALGURIA)
Judicial Member

Dated:05/02/2025

*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