



**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, AM.**

&

DINESH MOHAN SINHA, JM

आयकरअपीलसं./ITA No.208/RJT/2024

निर्धारणवर्ष / Assessment Year: (2012-13)

(Hybrid Hearing)

Shree Karni Education Trust Little Star School, Bunglavadi, Shreeji Park, Near Telephone Exchange, Jamkhambhalia, Devbhumi Dwarka - 361305	Vs.	ITO EXEMPTION WARD- 2. Aaykar Bhawan, Race Course, Ring Road, Income Tax Exemption Ward-2, Rajkot - 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AACTS1423R		
(Appellant)		(Respondent)

Appellant by : Shri R.B. Gohil, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav, Ld. SR. DR
Date of Hearing : 18 /03/2025
Date of Pronouncement : 19 /03/2025

आदेश / ORDER

PER DINESH MOHAN SINHA JM;

Captioned appeal filed by assessee pertaining to Assessment Year 2012-13, is directed against order passed by Commissioner Of Income Tax (Appeal),



vide order dated 23/02/2024, which in turn arises out of an order passed by the Assessing Officer dated 30/11/2019 u/s 144 of the Income Tax Act, 1961.

2. GROUNDS OF APPEALS:-

- 1. Learned AO erred in law and on facts in making the addition of Rs. 21, 94,000 being the amount deposited in bank account as unexplained cash credit u/s 69A.*
- 2. Learned. AO erred in law and on facts in passing order u/s 144 before disposal of our letter for dropping proceeding u/s 148 and 143(3).*
- 3. Learned AO erred in law and on facts in passing order without communicating any notices in spite of the facts that we have provided new address and our email and same are in the records of learned AO.*
- 4. Learned AO has violated principle of natural justice so the order passed to be set aside,*
- 5. Learned AO erred in law and in facts in passing order u/s 144 without serving any notice u/s 142(1).*
- 6. Learned AO has not given enough opportunity to heard before passing order.*
- 7. Learned AO erred in law as well as in facts for invoking proceeding u/s 271(1) (c).*
- 8. Learned AO erred in law as well as in facts for addition of total credit in bank account inspite of the fact that same are already incorporated in the other PAN*
- 9. any other additional ground in the benefit of the assessee*

3. Facts of the Case as recorded by The Ld CIT(A)

“The assessee – Trust had not filed its return of income for A.Y. 2012-13. In this case, it was gathered from the ITS details that during F.Y. 2011-12, the assessee-trust has made cash deposit of Rs.14,88,500/- in the Savings Bank A/c maintained with the Axis Bank Ltd and Rs.7,05,500/- in the HDFC Bank Ltd. In absence of the return of income, the source of the cash deposit remained unexplained. The case was reopened u/s. 147 of the Act. Notice u/s. 148 of the Act was issued on 23.03.2019 and duly served upon the assessee by affixture on 28.03.2019. Subsequently, notice u/s. 142(1) was issued from time to time but the assessee has not bothered to furnish any details/ explanation in this regard. ”



4. The Ld AO pass an order with following observation.

“ I find no merit in the grounds of appeal taken by the appellant and accordingly the same are rejected/dismissed.”

5. That the assessee filed an appeal against the order of assessment before Ld CIT(A). That said appeal was disposed of by Ld. CIT(A) with following observation.

"In absence of any explanation/ details, the entire cash deposit in both the banks to the tune of Rs. 21,94,000/- remained unexplained in the hands of the assessee. In absence of any satisfactory explanation, total cash deposit amounting to Rs. 21,94,000/- made in the bank accounts maintained with Axis Bank Ltd and HDFC Bank Ltd. is treated as unexplained in the hands of the assessee and added to its total income. The appellant was given the opportunity to present its case and submit documents/ submission in support of its appeal. Notices u/s 250 of the Act were issued, however, the appellant did not comply with these notices. The details of notices issued u/s 250 of the Act are as under: I find no merit in the grounds of appeal taken by the appellant and accordingly the same are rejected/dismissed."

6. That the assessee filed an appeal against the impugned order dated 23.02.2024 of the Ld CIT(A) before us.

(i) During the course of hearing the Ld AR has submitted that the assessee could not comply with the direction of the notice issued by Ld

CIT(A). Because the assessee is working on PAN NO. AATK1912D and all notices sent on different PAN NO. AACTS1423R. That Ld AR further



requested that an opportunity may kindly be provided to explain the case before the lower Authority.

(ii) On the contrary the Ld DR has relied on the order of the Ld CIT(A) and submitted that number of notices were issued to the assessee for compliance but the assessee failed to submit the reply. Due opportunity was provided to the assessee. However Ld DR has not objected to the request of the assessee for granting an opportunity to explain the case.

7. We have heard both the representative of the party and perused all the material available on record before us. The Ld CIT(A) has given the opportunity to present the case and submit documents/ submission in support of claim in appeal. Notices u/s 250 of the Act were issued. However, the appellant did not comply with these notices issued on dated, 01.02.2021, 12.04.2023, 14.02.2024. That the Ld CIT(A) has dismissed the appeal of the assessee stating that the assessee could not disapprove the finding of the Ld AO in the appellate proceedings. The Ld CIT has decided the case ex-parte. We note that the assessment order framed by Ld AO is also ex-parte u/s 144 of the Act.

We note that the assessee could not attend the hearing because of two PAN NO. and could not get the proceedings in one PAN NO. We note that the assessee has a non Co-Operative attitude. Hence we direct the assessee to deposit a cost of Rs. 10,000/- in the P.M. relief fund within 10 days from today and the receipt of the same should be placed on record. We are of the view that the request of the Ld AR asking for one opportunity to present the case before the Ld CIT(A) need to be accepted. We therefore set aside the order of the lower authority and the matter remit back to the file of Ld AO to adjudicate the matter according to law after giving due opportunity to the assessee to submit/explain his case.

7. In result the appeal of the assessee allowed for statutory purpose.



Order pronounced in the open court on 19 / 03/2025.

**Sd/-
(Dr. A.L. SAINI)
ACCOUNT MEMBER**

**Sd/-
(DINESH MOHAN SINHA)
JUDICAL MEMBER**

Rajkot

दिनांक/ Date: 19 /03 /2025

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot