

**THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN BENCH, NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
(Through Video Conferencing)**

ITA No. 9/DDN/2024
(Assessment Year: 2017-18)

Harish Chandra, 48, Thapla, Malital, Nainital, Uttarakhand- 263 001	Vs.	AO, Ward-2(3)(1), Nainital
(Appellant)		(Respondent)
PAN:AYYPC4939Q		

Assessee by :	None
Revenue by:	Shri Amar Pal Singh, JCIT DR
Date of Hearing	17/03/2025
Date of pronouncement	02/04/2025

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.9/DDN/2024 for AY 2017-18, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi dated 21.12.2023 [hereinafter referred to as 'Id. NFAC', in short] in appeal No. ITBA/NFAC/S/250/2023-24/1058954387(1) against the order of assessment passed u/s 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 27.11.2019 by the Assessing Officer, ITO, Ward-2(3)(1), Nainital (hereinafter referred to as 'Id. AO').

2. One of the preliminary ground raised by the Assessee before us is that the Learned CITA erred in not disposing of the Rule 46A of the Income Tax Rules Petition filed by the Assessee in the form of additional evidences before him.

3. None appeared on behalf of the assessee despite issuance of notice. Hence we proceed to dispose of this appeal on hearing the Learned DR and based on materials available on record.

4. We find that assessee is an individual and had not filed his return of income for the assessment year 2017-18. Accordingly, a notice under section 142(1) of the Act was issued to the Assessee on 16-3-2018 requiring the Assessee to file the return of income on or before 31-3-2018. No compliance was made by the Assessee regarding the same. Accordingly, the proceedings under section 144 of the Act was initiated by the Learned AO in the instant case. The Learned AO issued notice under section 133(6) of the Act to various banks as per information available with the department for providing bank statements of all the accounts maintained by the Assessee with their respective branches. The response statements of bank statements maintained by the Assessee were received from the branches. From the same, it was found that the Assessee was having bank accounts with 11 banks and had deposited cash of Rs 17,65,700/- in various bank accounts and cheque credits of Rs 11,89,342/- in the bank accounts. Out of the cash deposits totally made in the sum of Rs 17,65,700/-, the Learned AO observed that a sum of Rs 8,42,500/- represent cash deposits made during the demonetization period in Specified Bank Notes (SBN). Accordingly, the Learned AO issued show-cause notice under section 144(1)(b) of the Act to the Assessee as to why the assessment should not be completed based on the credits found in the bank account of the Assessee. In response to the same, the Assessee submitted that account number 4441225059 maintained with Uttarakhand Gramin Bank is related to his mother, Smt Nanda Devi, and all the credits of the cash deposits and cheque deposits appearing in that account pertain to her. The Assessee submitted that his primary occupation is agriculture and sale of dairy

products. During the year under consideration, the Assessee has also received income from taxi rental and interest income. The Assessee claimed that his total taxable income for the year under consideration was Rs 1,52,000/- and that he was not obliged to file the income tax return as it was below the maximum amount not chargeable to tax. With regard to source of cash deposited during demonetization period, the Assessee submitted that the same was made out of sale of buffaloes, milk products and spices.

5. However, the Learned AO observed that no documentary evidence has been submitted by the Assessee in this regard. Further the details of land holdings, sale of agricultural produce, khasra / Khatuni, vehicle number, copy of agreement for lease of vehicle etc. has not been furnished by the Assessee to justify the receipt of agricultural income. Hence, the Learned AO proceeded to treat the credits in the bank account representing cheque and cash credits as unexplained money under section 69A of the Act and made an addition of Rs 27,05,042/- after giving credit of a sum of Rs 2,50,000/- as attributable to past savings. Further the Learned AO also added the interest income of Rs 103,317/- and completed the assessment under section 144 of the Act on 27-11-2019. The Assessee preferred an appeal before the Learned CITA.

6. No appearance was made before the Learned NFAC and ultimately the Learned NFAC decided the appeal ex parte without giving any independent finding on merits. As stated supra, on perusal of the order of the Id NFAC, we find that the Id NFAC had decided the issue ex parte without adjudicating the issue on merits giving its independent finding. Hence, in the interest of justice and fairplay, we deem it fit and appropriate to restore this appeal to file of Id NFAC for de novo adjudication in accordance with law. Needless to mention the assessee be given reasonable

opportunity of being heard. The assessee is directed to cooperate with Id NFAC for expeditious disposal of the appeal by not taking unwarranted adjournments. Hence, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 02/04/2025.

-Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 02/04/2025
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi