

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "B" JAIPUR

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठौड़ कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA. No. 1376/JPR/2024
निर्धारण वर्ष / Assessment Years : 2015-16

Sh. Kailash 205, Samod tower, Sansar Chand Road, Dadu Bagh, Jaipur.	बनाम Vs.	Income Tax Officer, Ward-7(1), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: BHPPK5846P		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Saurav Harsh, Adv.
राजस्व की ओर से / Revenue by : Mrs. Swapnil Parihar, JCIT-DR

सुनवाई की तारीख / Date of Hearing : 24/02/2025
उदघोषणा की तारीख / Date of Pronouncement : 03/04/2025

आदेश / ORDER

PER: DR. S. SEETHALAKSHMI, J.M.

This appeal is filed by the assessee against the order of the Ld. CIT(A), National Faceless Appeal Centre, Delhi dated 24.09.2024 [hereinafter referred as "CIT(A)/NFAC"] for the assessment year 2015-16, which in turn arise from the order dated 22.03.2023 passed under

section 147 r.w.s. 144 of the Income Tax Act, [hereinafter referred as “Act”] by the AO.

2. The assessee has raised following grounds:-

“1. That on the facts and in circumstances of the case, the Id. CIT(A) grossly erred in passing an ex-parte order u/s 250 of the Act without providing sufficient opportunity of hearing to the assessee.

2. That on the facts and in circumstances of the case, the Id. Lower Authorities grossly erred in confirming the addition of Rs. 1,27,60,600/- on account of unexplained cash deposits by the assessee and adding the same to the total income of the assessee.

3. The appellant craves leave to add, alter, modify or amend any ground on or before the date of hearing.”

3. The brief facts of the case are that no return of income was filed by the assessee u/s 139(1) of the Income-tax Act 1961. Subsequently, on possession of information regarding cash deposited in bank accounts during the year by the assessee, necessary reasons were recorded and after obtaining approval of Pr.CIT Rajasthan, Jaipur on 28.03.2022, the case was re-opened and notice u/s 148 was issued on 29.03.2022 which was served through Regd. Post and the assessee was required to furnish return of income within the stipulated time but compliance of the same was not made.

3.1 Further, in order to complete the proceedings, notice u/s 142(1) was issued on 03.02.2023 fixing the case for hearing on 20/02/2023 but compliance of the same was not made. Another notice u/s 142 (1) was also issued on 25/02/2023 fixing the case for hearing on 06.03.2023 but again it was not complied. It shows that assessee do not want to file return and or submit any explanation intentionally. Since, the time-barring proceedings are involved, therefore, taking into consideration of non compliance on the part of the assessee, the undersigned has no alternate except completing the time-barring assessment u/s 144 of the I.T. Act 1961. Therefore, in order to afford final opportunity to the assessee, notice u/s 144 of the LT. Act 1961 was issued on 10.03.2023 fixing the case for hearing on 17.03.2023 which was got served upon assessee through Regd. Post. But till date, the assessee has not furnished any reply through Registered post as well as Via Email, therefore the case is being completed u/s 144 of the I.T. Act 1961 on the basis of material available on record.

3.2 The ld. AO noted that during the year under consideration, the assessee has deposited cash of Rs. 1,27,60,000/- in his saving bank a/c maintained but failed to explain the source of such amount deposited in cash in his bank account the assessee has not made any compliances of the notices issued during the course of assessment proceedings. As, no

explanation regarding the cash deposits of Rs. 1,27,60,000/- appearing in his bank account, has been offered and not have furnished any documentary evidences regarding source of the cash deposits. Therefore considering the facts, the total cash deposits i.e. Rs. 1,27,60,000/- is treated as unexplained cash deposits and is added to the total income of the assessee.

4. Aggrieved from the order of AO, the assessee preferred an appeal before the ld. CIT(A). Apropos to the grounds so raised the relevant finding of the ld. CIT(A) is reiterated here in below:-

“6. Adjudication:

The appellant did not file the return of income u/s 139(1) of the Income-tax Act 1961 for the AY 2015-16. The AO reopened the case based on the information that the appellant deposited cash of Rs. 1,27,60,000/- in his saving bank a/c maintained with State Bank of Bikaner and Jaipur (Now merge in SBI). The appellant did not file the return of income in response to the notice u/s 148 of the act. The appellant did not respond to the statutory notices and show cause notice issued u/s 144 of the act before the conclusion of assessment.

The assessment was concluded u/s 144 r.w.s 147 of the by adding Rs. 1,27,60,000/-as unexplained cash deposits for the impugned assessment year.

The appellant has challenged that action of the AO by raising two grounds of appeal.

Ground No 1: Assessing Officer has grossly erred in passing ex-parte assessment order under section 144 without providing sufficient opportunity of hearing This ground lacks merit since the AO has averred that the show cause notice u/s 144 of the act was served

through registered post before completion of the assessment Hence this ground is dismissed.

Ground No 2: The Id. Assessing Officer has grossly erred in making addition of Rs. 1,27,60,000/- on account of unexplained cash deposited in bank account made by the assessee appellant which is bad in law and illegal:

There is no response to the hearing notices issued at the appellate stage. The appellant has not prosecuted the appeal by producing necessary documentary evidence in support his claim The appellant stated in the SoF that he was the secretary of DugdhUtpadakSehkariSangh Limited, Nangal Purohitan, Jaipur ie. association of farmers who supplied milk to SARAS Dairy, Jaipur and the cash withdrawn by the society was deposited in his account for making payment towards purchase of cattle feed. But it was not explained as to why the bank account of the appellant was used as a pass through instead of making direct payment from the account of the society to the supplier of the cattle feed. The appellant has not provided any documentary evidence in support of his claim and confirmation letter from the society.

The appellant did not produce any documentary evidence to disprove the addition made by the AO. Hence I am constrained to uphold the addition made by the AO and this ground is dismissed.

7. In result, the appeal is dismissed.”

5. During the course of hearing, the Id. AR for the assessee prayed that the Ld. CIT(A) and the AO has passed the ex-parte order and the assessee was not provided adequate opportunity of being heard. Thus, the assessee may be provided one more opportunity to advance his arguments/submissions before the Id. AO in the interest of equity and justice.

6. Per contra, Ld. DR objected to the prayer of the assessee and submitted that even the assessee did not represent case before the Id. AO

and therefore, in that case the Bench feels the matter may be restored to the file of the Assessing Officer.

7. We have heard both the parties and perused the materials available on record. The bench noted from the order of Id. CIT(A) that the appeal of the assessee owing to repeated **non-compliance by the assessee and absence of supporting documentary evidence**. Further we noted that the Ld. AO added **₹1,27,60,000/- as unexplained cash deposits** under Section 69A, citing absence of any explanation or documents to justify the source of cash in the assessee's savings bank account and **before the Ld. CIT(A), the assessee explained that the amount represented funds related to his role as Secretary of a Dugdh Utpadak Sahakari Samiti, deposited for cattle feed payments. However, this claim was not supported by any confirmations, ledgers, or bank entries showing linkage between the Samiti and the alleged transactions but the Ld. CIT(A) upheld the assessment due to complete failure on part of the assessee to substantiate his claim, both during the assessment and appellate proceedings.**

8. Before us, the Ld for the AR assessee submitted that the earlier non-compliance was unintentional and requested **one final opportunity** to furnish documentary evidence in support of his claim. The Bench,

while acknowledging the past defaults, found merit in giving the assessee a final opportunity in the **interest of natural justice**.

Taking into consideration of the present facts and the case the Bench is of the view that the matter needs to be **restored to the file of the Assessing Officer** for denovo adjudication. The assessee shall ensure that no adjournments are sought on frivolous grounds and that all required documents are submitted within the time granted by the AO.

9. Before parting, we may make it clear that our decision to restore the matter back to the file of the Id. AO shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the Id. AO independently in accordance with law.

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

Order pronounced in the open Court on 03/04/2025.

Sd/-

(राठौड़ कमलेश जयन्तभाई)
(RATHOD KAMLESH JAYANTBHAI)
लेखा सदस्य / Accountant Member

Sd/-

(डॉ.एस.सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur
दिनांक / Dated:- 03/04/2025
*Santosh

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Kailash, Jaipur.
2. प्रत्यर्थी / The Respondent- ITO, Ward-7(1), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File { ITA No. 1376/JPR/2024 }

आदेशानुसार / By order

सहायक पंजीकार / Asst. Registrar