

**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.40/Alld/2024
Assessment Year:2017-18

New Jai Durga Enterprises, 43/51, Leader Road, Allahabad PAN:AANFN4049B (Appellant)	Vs.	Income Tax Officer, Ward-1(3), Allahabad (Respondent)
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Appellant by	Shri Pankaj Shukla, Advocate
Respondent by	Shri A. K. Singh, Sr. D.R.
Date of hearing	07/04/2025
Date of pronouncement	07/04/2025

ORDER

PER SUBHASH MALGURIA:J.M.

This appeal has been filed by the assessee for assessment year 2017-2018 against impugned appellate order dated 19/01/2024 (DIN & Order No.ITBA/NFAC/S/250/2023-24/1059911734(1) of Commissioner of Income Tax (Appeals) ["CIT(A)" for short].

2. The facts of the case, in brief, are that the assessee firm deals in the business of medicine and surgical items. The assessee filed its return of

income on 20/09/2017 showing total income of Rs.38,750/-. The case was selected for scrutiny under CASS. Notice under section 143(2) of the Act was issued on 10/08/2018 but no compliance was made. Subsequently, notices under section 142(1) were also issued on 22/07/2019, 31/08/2019 and 12/11/2019 and show cause notice on 04/12/2019 requiring the assessee to furnish certain details and to explain the source of deposits made in all bank accounts including cash deposited during demonetization period with evidences but the assessee failed to comply. Ultimately, the Assessing Officer completed the assessment u/s 144 of the Act, determining the total income of the assessee at Rs.23,63,070/-. Aggrieved, the assessee carried the matter in appeal before the learned CIT(A) and vide its written submissions the assessee submitted that the opportunity provided by the Assessing Officer could not be availed as main partner was out of station during November and December 2019 and other partner had no knowledge of accounts and income tax. The learned CIT(A) issued various notices to the assessee, in response to which the assessee filed written submissions. Finally, the appeal of the assessee was dismissed by learned CIT(A). Now the assessee is in appeal before the Income Tax Appellate Tribunal.

3. We have heard the rival parties and have gone through the material placed on record. Learned Counsel for the assessee, submitted that in absence of any adverse material against the assessee before the Revenue, the presumption drawn by the learned Assessing Officer relating to the cash deposits made by the assessee during the year in its bank account, which was out of realization from debtors, being sale proceeds of the assessee, during the year has been erroneously added by him and the same has been erroneously confirmed by the learned CIT(A). From the

facts of the case it is apparent that the Assessing Officer was forced to complete assessment u/s 144 of the Act as various notices issued by the Assessing Officer remained uncomplished. The assessee, during the course of hearing before the learned CIT(A), had accepted that the opportunity provided by the Assessing Officer could not be availed as main partner was out of station during November and December 2019 and other partner had no knowledge of accounts and income tax. Learned D.R. on the other hand, supported the orders of the authorities below. In view of the above, the order of learned CIT(A) is set aside and the case is remanded back to the file of the Assessing Officer to pass de novo assessment order after providing due and reasonable opportunity of being heard to the assessee.

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

(Orders pronounced on 07/04/2025 in accordance with Rule 34(4) of the I.T.A.T. Rules)

Sd/.
(SANJAY AWASTHI)
Accountant Member

Sd/.
(SUBHASH MALGURIA)
Judicial Member

Dated:07/04/2025
*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