

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M JOSHI, JUDICIAL MEMBER

ITA No.500/Ind/2024 (AY: 2017-18)

Rahul Jain, S/o Santhosh Kumar Jain, Poonam Vihar Colony, Jaora, Dist. Ratlam Ratlam (PAN: AYJPJ5934F)	<u>बनाम/</u> Vs.	ITO-2, Ratlam
(Appellant)		(Respondent)
Assessee by	None	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	08.04.2025	
Date of Pronouncement	23.04.2025	

आदेश / O R D E R

Per Paresh M Joshi, J.M.:

This is an appeal filed by the assessee Under Section 253 of the Income Tax Act (hereinafter referred to as the "Act" for sake of brevity) before this Tribunal. The assessee is aggrieved by the order bearing Number ITBA/NFAC/S/250/2024-25/1064232917(1) dated 19.04.2024 of Ld. CIT(A) passed u/s 250 of the Act which is hereinafter referred to as the "**Impugned order**".

The relevant Assessment Year is 2017-18 and the corresponding previous year period is from 01.04.2016 to 31.03.2017.

2. **FACTUAL MATRIX**

2.1 That by an assessment order bearing Number: ITBA/AST/S/144/20919-201018756389(1) dated 10.10.2019 the income of the assessee was computed at Rs.20,00,414/- u/s 144 of the Act. It is required to be noted that in the assessment order it is recorded that notice u/s 142(1) dated 12.03.2018 requesting the assessee to file return of income for Assessment Year 2017-18 was not complied with. It is also recorded that since the assessee has deliberately failed to file the return of income and has failed to comply with the notice u/s 142(1) of the Act it is clear that the assessee has no explanation to offer about the source of cash deposit of Rs.20,00,414/- in Central Bank of India, Jaora, M.P. It is also recorded that additionally one more opportunity was afforded to the assessee u/s 142(1) of the Act along with a show cause notice as to why amount of cash deposit in the bank account (supra) as per information available with the department should not be treated as unaccounted income. However even this opportunity was not

availed off by the assessee and no response from the assessee came forth. Hence assessment was carried out u/s 144 of the Act.

2.2 In the assessment order at para 7.1 it is recorded as follows:-

“7.1 During the proceedings, the information regarding bank account hold by the assessee has been obtained and verified. On verification of the said bank account statement(s), it is seen that, following amount(s) has been credited in the relevant bank (related to Assessment Year 2017-18):-

S.No.	Bank Name	Branch	Account Number	Total amount of credited in account
1	Central Bank of India	7 Jawahar Path, Jaora	3556339200	Rs.20,00,414/-

2.3 In the assessment order at para 7.2 it is also recorded as under:-

“7.2. In view of non-compliance from the assessee, it is clear that the assessee has no any explanation to offer regarding nature and source of above amount credited in the assessee's own bank account. Therefore, the above amount of Rs 20,00,414/-credited into assessee's bank account, is herewith treated as Unexplained Money under Section 69A, read with Section 115BBE of the Income Tax Act, 1951, for the year under consideration.”

2.4 In final analysis total income of the assessee was computed as under at para 9 of the assessment order as under:-

"9. In view of the above, total income of the assessee is assessed/computed as under:

1	<i>Unexplained money under Section 69A read with Section 115BBE of the Income Tax Act, 1961.</i>	<i>Rs.20,00,414/-</i>
2	<i>Assessed Income</i>	<i>Rs.20,00,414/-</i>

2.5 In the assessment order it is also recorded at para 10 that addition has been made under Section 69A of the Act and that tax is payable under Section 115BBE of the Act.

2.6 That aforesaid assessment order is hereinafter referred to as the **"Impugned Assessment Order"**.

2.7 That the assessee being aggrieved by the **"Impugned Assessment Order"** prefers first appeal u/s 246 A of the Act before Ld. CIT(A) who by the impugned order has dismissed the appeal of the assessee.

2.8 That the assessee being aggrieved by the **"Impugned Order"** has preferred present Second appeal before us and has raised following grounds of appeal in Form No.36 against the impugned order which are as under:-

"1 GROUND NO. 01: That on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not holding that the order passed U/s. 144 is wrong and invalid.

2 GROUND NO. 02 That on the facts and in the circumstances of the case, the Ld. CIT(A) also erred in not holding that the addition made U/s. 69A at Rs. 20,00,414/- on account of amount deposited in bank account of the appellant with Central Bank of India, Jaora, and also levying of the tax thereon U/s. 115BBE of the Income Tax Act both are wrong, invalid and unjustified.

3 PRAYER: That the appellant craves leave to add, alter, amend or modify all or any of the above grounds of appeal at any time before the completion of the hearing."

3. **Recording of Hearing**

3.1 The hearing in the matter took place before this Tribunal on 08.04.2025 where none appeared on behalf of the assessee. The assessee however has placed on record a written submission in hindi along with documents like Balance Sheet, Trading Account, Bank statement etc. totalling 12 separate documents. Per contra Ld. DR for and on behalf of the Revenue has interalia contended that the impugned assessment order is passed u/s 144 of the Act and assessee has remained totally non compliant despite notice. The assessee has not availed any opportunity whatsoever despite opportunities after opportunities at original stage of proceedings itself. The Ld. Assessing Officer was therefore left with no other alternative but to pass order u/s 144 of the Act.

3.2 The Ld. DR basis impugned order of Ld. CIT(A) has contended that written submissions two in number were filed by the assessee and basis that it was expected that a detailed order on merits of the case would be passed. However in written submissions so filed which are reproduced in the impugned order there is no valid explanation at all on merits of the case. No material with credence was placed on record to dislodge the impugned assessment order. The Ld. DR then contended that written submissions filed before this Tribunal along with 12 new documents were neither before the Ld. A.O nor were before Ld. CIT(A). Under these circumstances he finally contended that impugned order be set aside and matter is send back to Ld. A.O to pass a fresh order on merits after taking into consideration fresh material so placed now before this Tribunal.

4. **Observations, findings & conclusions.**

4.1 We now have to decide the legality, validity and the propriety of the "Impugned Order" basis records of the case and rival submissions canvassed before us by both Ld. AR and Ld. DR.

4.2 We have carefully perused the records of the case and have minutely examined the same.

4.3 We basis records of the case, contentions canvassed before us and so also after carefully perusing the written submissions along with 12 documents filed before us, are of the considered view that impugned order deserves to be set aside as the **“Impugned Assessment Order”** was **u/s 144** of the Act as these 12 documents which is now filed before us were not before Ld. A.O at original assessment stage. We further note that even before Ld. CIT(A) these 12 documents were not placed on record which assessee could have done so. Under these circumstances we are of the considered view that there is no effective meritorious disposal of either the original assessment order nor first appellate order and computation of income has been done not in meritorious manner for which much fault is of assessee only as assessee was in slumber mode. It is only now he has awoken to realities. Hence impugned order is set aside and matter is remanded back to Ld. A.O on *denovo basis*. The Ld. A.O shall accept all material placed before us and after carrying out detailed examination and verification of same would suitably

pass a fresh order. The assessee is directed to cooperate with the department and ensure that passing of assessment order on *denovo basis* is not further delayed. Needless to state in revenue matter both assessee and Department must cooperate with each other for good.

5. **Order**

5.1 Impugned order is set aside as and by way of remand on *denovo basis*.

5.2 Appeal of the assessee is allowed for statistical purpose.

Order pronounced in open court on 23.04.2025.

Sd/-

Sd/-

(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER

(PARESH M JOSHI)
JUDICIAL MEMBER

Indore

दिनांक/ Dated : 23/04/2025

Dev/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

Senior Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore