

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.657/Ind/2024
Assessment Year:2018-19

Mukesh Kumar Rathore Vivekanand Ward, Ganj Betul, Betul (Assessee/Appellant)	<u>बनाम/</u> Vs.	ITO (Revenue/Respondent)
PAN: BEKPR1985N		
Assessee by	Shri N.D. Patwa, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	09.04.2025	
Date of Pronouncement	28.04.2025	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by order of first-appeal dated 02.07.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 21.02.2023 passed by learned Assessment Unit of Income-tax Department ["AO"] u/s 147 r.w.s. 144 and 144B of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2018-19, the assessee has filed this appeal on following grounds:

1.The Ld. AO was not justified in passing the order, which is bad-in-law, void ab initio, barred by limitation, illegal, contrary to the facts and circumstances of the case, liable to be annulled.

2.The Ld. CIT(A) was not justified in confirming the order, which is bad-in-law, void ab initio, barred by limitation, illegal, contrary to the facts and circumstances of the case, liable to be annulled.

3.The Id. CIT(A) was not justified in confirming the addition of Rs. 1,12,84,911/- without considering the facts and circumstances of the case.

4.The appellant carves leave to add, amend or modify any of the grounds of appeal."

2. The background facts leading to present appeal are such that the assessee-individual did not file return of income for AY 2018-19. The AO, on the basis of information available in Insight Portal of Income-tax Department regarding cash deposits of Rs. 66,77,610/- made in Bank A/c during the previous year 2017-18 relevant to AY 2018-19, adopted the procedure of section 148A and re-opened assessee's case u/s 147 through notice dated 31.03.2022 u/s 148 calling the assessee to file return within 30 days. In response, the assessee filed return on 30.04.2022 declaring a total income of Rs. 5,42,840/- [Para 3 of assessment-order]. Thereafter, the AO issued various notices u/s 143(2)/142(1) on different dates out of which initial notices dated 28.09.2022 & 22.11.2022 remained uncompiled by assessee; the notice dated 08.12.2022 was partly complied by assessee; and adjournment request was filed in response to notice dated 16.12.2022. Thereafter, the AO issued final show-cause notice dated 06.01.2023 which remained uncompiled by assessee. Then, the AO collected bank statements

from concerned bank u/s 133(6) and came to know about total credits of Rs. 1,12,84,911/- in the bank a/cs of assessee during the relevant year. Accordingly, the AO framed assessment u/s 144 after making an addition of Rs. 1,12,84,911/- on account of unexplained income u/s 69A to the returned income and thereby assessing total income at Rs. 1,18,27,751/-. Aggrieved, the assessee carried matter in first-appeal.

2.1 During first-appeal, the assessee made submissions to CIT(A) which are duly re-produced in Para 2 and 4 of impugned order by CIT(A). However, the CIT(A) rejected assessee's submission and upheld AO's order. Now, the assessee has come before us in next appeal.

3. During hearing before us, Ld. AR for assessee referred Para 2 of impugned order wherein the assessee's submission is re-produced by CIT(A). It was submitted by assessee to CIT(A) (i) that he was engaged in trading of vegetables in Krishi Mandi, Betul; (ii) that he filed return of income in response to notice u/s 148 on the basis of information available with him; (iii) that the password of email id to which notices were sent by AO was lost and the assessee updated new email id on income-tax portal but the AO continued to send notices to old email id; and (iv) that during the period of proceedings by AO, he was also suffering from mental depression and

medical complications such as anxiety and diabetics and taking continuous treatment [the medical prescriptions and laboratory reports were filed to CIT(A)]. Therefore, the assessee could not pay proper attention to the proceedings and could not be diligent in checking the proceedings, if any, conducted by AO and make submissions to AO. However, the assessee has compiled/collected all details/documents and ready to represent its case before AO. Therefore, having regard to the difficult position of assessee and in the interest of justice, one more opportunity may be given to assessee to make representation before AO and for this purpose, the case may be restored to the file of AO.

4. Ld. DR for revenue instantly agrees with the prayer of Ld. AR for remanding this case to the file of AO but makes a request to direct the assessee to represent his case before AO and do not seek unnecessary adjournments.

5. Considering above submissions of both sides and also having regard to the principle of natural justice and fair play, we deem it fit to remand this matter back to the file of AO for adjudication afresh, at the risk and responsibility of assessee. The AO shall give necessary opportunity of hearing to assessee and pass an appropriate order uninfluenced by his

earlier order. The assessee is also directed to ensure participation in the hearings as may be fixed by AO and do not seek unnecessary adjournments failing which the AO shall be at liberty to pass appropriate order in accordance with law. Ordered accordingly.

6. Resultantly, this appeal is allowed for statistical purpose.

Order pronounced in open court on 28/04/2025

Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 28/04/2025

Patel/Sr. PS

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

By order
Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore