

IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH, JODHPUR

**BEFORE DR. MITHA LAL MEENA, ACCOUNTANT MEMBER AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

**ITA No.74/JODH/2024
(Assessment Year : 2017-18)**

Chetan Ram, Bhitu Bhimji C/o Ashok Kumar Bansal Vijay Shanti Plaza, Near Railway Crossing, Balotra, Rajasthan- 344 022 PAN:CEPPR8345A	vs	Income Tax Officer, Mahavir Nagar, Barmer
APPELLANT		RESPONDENT

Assessee by : Shri Amit Kothari
Respondent by : Shri Karni Dan, Addl.CIT (Sr.DR.)
Date of hearing : 27/05/2025
Date of pronouncement : 27/05/2025

ORDER

Per Anikesh Banerjee (JM):

The impugned appeal of the assessee was filed against the order of the National Faceless Appeal Centre (NFAC), Delhi [in short, 'Ld.CIT(A)] passed under section 250 of the Income Tax Act, 1961 (in short, 'the Act') for Assessment Year 2017-18, date of order 05/12/2023. The impugned order was originated from the order of the Learned Income-tax Officer, Ward-1, Barmer (in short, the "Ld. AO") passed under section 144 of the Act, date of order 21/11/2019.

2. We heard the rival submissions and considered the documents available on record. It is noticed that the assessment was completed under section 144 with an addition of Rs.20,30,000/- made under section 69A of the Act, addition of net profit rate amount to Rs.16,92,810/- and the addition of commission income amount to Rs.1,00,905/-. It is found that the assessee was non filer and had not filed the return of income for the impugned assessment year. Aggrieved by the additions, the assessee filed an appeal before the Ld.CIT(A). The Ld.CIT(A) rejected the appeal of the assessee on the ground that the assessee has not paid the advance-tax or has not discharged the obligation for payment of disputed tax, thereby contravening the provisions of section 249(4)(a) of the Act. So, the Ld.CIT(A) dismissed the appeal of the assessee in an exparte order passed without considering the assessee's submission. Being aggrieved, the assessee filed an appeal before us.

3. During the hearing before us, the Ld.AR filed a paper book containing pages 1 to 145, which is kept on record. The Ld.AR invited our attention to **APB pages 61-64**, where computation of total income related to this impugned assessment year, is placed. From this computation, it is depicted that the assessee has total income of Rs.2,46,910/- during the impugned assessment year and there is no liability for payment of tax. Furthermore, the TCS was collected of Rs.2,13,083/-, which is reflected in the Form 26AS. This fact was also informed by the assessee to the Ld.CIT(A) by a letter dated 25/11/2023, which is annexed at **APB pages 43 to 44**.

4. The Ld.DR argued and only relied on the orders of the revenue authorities.

5. In our considered opinion, the assessee did not file a return as the income was below the taxable threshold. Moreover, the assessee was eligible to claim

credit for TCS during the assessment year under consideration. We find that the dismissal of the appeal by the Ld. CIT(A) on the grounds of non-compliance with section 249(4)(a) of the Act is not justified.

However, the assessee was unable to substantiate the claim made before the Ld. CIT(A) in relation to the addition made by the Ld. AO. Accordingly, we deem it appropriate to restore the matter to the file of the Ld. CIT(A) with a direction to pass a reasoned and speaking order after considering the facts of the case.

We express no opinion on the merits of the case so as not to prejudice the appellate proceedings before the Ld. CIT(A). It is also directed that the assessee be afforded a reasonable opportunity of being heard during the remand proceedings. Conversely, the assessee is expected to act diligently and cooperate fully to ensure the prompt disposal of the appeal.

6. In the result, the appeal filed by the assessee bearing **ITA No.74/JODH/2024** is allowed for statistical purpose.

Order pronounced in the open court on 27th day of May, 2025.

Sd/-

(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

Jodhpur, दिनांक/Dated: 27/05/2025

Pavanan

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., जोधपुर/DR, ITAT, JODHPUR
5. गार्डफाइल/Guard file.

sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

//True Copy//

BY ORDER,

(Asstt. Registrar), ITAT, JODHPUR