

**IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH (Virtual) JODHPUR**

**BEFORE SHRI LALIET KUMAR, HON'BLE JUDICIAL MEMBER AND
DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER**

**ITA No. 419/Jodh/2023
(Assessment Year 2017-18)**

Vijender Singh, VPO – Uttamdesar, Tehsil Nokha, District Bikaner – 334802. PAN No. CZJPS2956R	Vs.	ITO, Ward-Nokha, Nokha.
Assessee by		Shri Shafi Mohd. Chouhan, Advocate.
Revenue by		Shri Karni Dan, Addl. CIT (Sr. D.R.)
Date of Hearing		21.05.2025.
Date of Pronouncement		17 . 06 .2025.

ORDER

DR. MITHA LAL MEENA, A.M.:

This appeal by assessee is directed against the order of National Faceless Appeal Centre [in short, the Ld. NFAC/CIT(A)] dated 19.12.2023 with respect to the assessment year 2017 18 challenging therein the order of the authorities below passed ex parte qua the assessee.

2. At the outset, the Ld. Counsel submitted that the Ld. CIT(A)/NFAC has erred in confirming the addition without going into merits of the case and that the said addition was made by the AO in an ex parte assessment order passed u/s 144 of the act in violation of principles of Natural Justice. He further



submitted that the worthy CIT(A) has grossly erred in confirming the same without appreciating the facts on merits of the case that the assessee has explained the receipts out to sale of wine shop as claimed to be declared in return of income. The AO has passed assessment order under section 144/144B without proper appreciation of the facts and granting adequate opportunity to the assessee that the disputed amount of addition was made on account of estimates and presumption out of direct and indirect expenses @ 20% besides cash deposit of 12,12,500/- in the bank account claimed during demonitisation ignoring the contention that it was out of the sale proceeds. He contended that neither the AO nor the Ld. CIT(A) has addressed the relevant matter regarding appellants claim made before them. Accordingly, he pleaded that the matter may be remanded back to the AO to pass *de novo* assessment after granting adequate opportunity of being heard. In support, he placed reliance on Judgement of Delhi High Court in the case of "Bharat Aluminium Company Ltd. vs. Union of India", [2022] 134 taxmann.com 187 (Delhi) where it was observed that Assessee would have a vested right to personal hearing in faceless assessment proceeding under section 144B and granting of personal hearing would not be discretionary as per individual facts of each case.



4. Per contra, the Ld. DR although supported the impugned order, however, he has no objection to the request of the appellant in view of principles of natural justice.

5. Heard rival contentions, perused the material on record, impugned order, written submission and case law cited before us. Admittedly, the revenue authorities have passed orders ex parte qua the assessee. The Ld. AR argued that the worthy CIT(A) decided the case ex parte without granting opportunity of the hearing against the ex parte assessment order passed under section 144/147 of the act and that while deciding the case ex-parte, the Ld. CIT(A) has not appreciated the facts of the case and arbitrarily confirmed the assessment order passed u/s 144 of the I.T. Act. It is seen that neither the AO nor the Ld. CIT(A) has addressed the relevant issue on merits of the case that the assessee explained the source of cash deposit in its bank account and expenses claimed.

5. In view of the principles of natural justice, the authorities below ought to have disproved the claim of the assessee by way of rebutting its contention with support of corroborative documentary evidence on record after granting an adequate opportunity of being heard. The Hon'ble Supreme Court of India in the case of Tin Box Company vs. CIT reported in 249 ITR 216 in which their Lordships of Supreme Court of India observed as under:



"Assessment - Opportunity of being heard - Setting aside of assessment - Assessment order must be made after the assessee has been given reasonable opportunity of setting out his case - Same not done - Fact that the assessee could have placed evidence before the first appellate authority or before the Tribunal is really of no consequence for it is assessment order that counts — Assessment order set aside and matter remanded to assessing authority for fresh consideration."

8. Considering the factual Matrix, we consider it deem fit to restore back the matter to the file of the Ld. AO to pass *de novo* assessment after considering the written submission and evidences filed on record and may be filed before him during the fresh Assessment Proceedings after granting sufficient opportunity of being heard to the assessee with a direction that the AO shall issue a Show Cause Notice and thereafter pass a reasoned order in accordance with law.
9. Accordingly, Assessment order is set aside and matter is remanded back to the file of the assessing officer to pass *de novo* assessment as per law.
10. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced on...17.../06.../2025 in the open court.

- Sd / -

(LALIET KUMAR)
JUDICIAL MEMBER

- Sd / -

(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

Dated : 17/06/2025

Copies to :

- (1) The appellant.
- (2) The respondent.

- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

By Oder
Assistant Registrar,
Income Tax Appellate Tribunal,
Jodhpur Bench,
Jodhpur.