

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G': NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
and
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.1048/DEL/2023
(Assessment Year: 2010-11)**

Syed Mohammad Ali Zaidi,
218, Al Murtaza Zaidi Nagar Society,
Meerut – 250 002 (Uttar Pradesh).

vs.

ITO, Ward 1(2)(5),
Meerut.

(PAN : AAFPZ1420J)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Amit Mathur, CA
REVENUE BY : Shri Manish Gupta, Sr. DR

Date of Hearing : 10.07.2025
Date of Order : 08.10.2025

ORDER

PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER :

1. This appeal is filed by the assessee against the order of the Id. Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi (for short 'Id. CIT (A)') for the Assessment Year 2010-11.
2. Brief facts of the case are, a notice under section 148 of the Income-tax Act, 1961 (for short 'the Act') was issued on the assessee through Speed Post after obtaining approval from Id. Pr. CIT, Meerut. Since there was no response from the assessee, notices u/s 142(1) along with questionnaire were issued to the assessee. Since there was no compliance

to the various invoices issued to the assessee, the assessment was completed u/s 144/147 of the Act. The AO received information from office of CIB/AIR with regard to cash deposit exceeding Rs.10 lakhs in the same bank account during the FY 2009-10 in PAN No.AAFPZ1420J. In order to verify the same, notice u/s 133(6) was issued to Axis Bank, Meerut Branch and as per the information, the assessee has deposited cash to the extent of Rs.19,35,000/- in his bank account. Since there was no response from the assessee the same was added u/s 69 of the Act as unexplained investment.

3. Aggrieved with the above order, assessee preferred an appeal before the Id. CIT (A), Meerut and assessee has raised grounds on non-serving of notice u/s 143(2) and 148 and further submitted that the account maintained by the assessee is a joint account of the family members includes his wife, son and daughter. After considering the details submitted by the assessee, Id. CIT (A) observed that the impugned bank account has opening balance of Rs.8,617/- and closing balance was Rs.1,02,207/-. After careful examination of the assessee's bank account, Id. CIT (A) observed that there is an actual accretion was above Rs.1 lakh during the entire year and there were frequent deposits including cash and withdrawals therefore, peak credit available from the examination was Rs.6,55,103/-. To that extent, the addition was sustained and balance was

deleted. Subsequently, the AO initiated the penalty proceedings and issued notices to the assessee, however there was no response from the assessee side and accordingly he proceeded to impose the penalty on the peak credit sustained by the Id. CIT (A) to the extent of Rs.1,09,600/- u/s 271(1)(c) of the Act. Since there was no response, the penalty was imposed.

4. Aggrieved assessee preferred an appeal before the Id. NFAC, Delhi and filed written submissions. However, Id. CIT (A) issued several notices and there was no compliance from the assessee. Since the assessee failed to make use of these opportunities, Id. CIT (A) dismissed the grounds raised by the assessee.
5. Aggrieved assessee is in appeal before us raising following grounds of appeal :-

“1. That the appellate order has not been received by the assessee till date. The Appeal is being filed by downloading the copy of order from assessee's Income Tax Portal.

2. That the Ld.CIT(A) has erred in confirming upholding the penalty of Rs.1,09,600/- imposed u/s 271(1)(c) by the AO, which being tenable and unjustified under the facts and circumstances of the case be kindly cancelled.

The assessee - appellant is far more aggrieved by the colourable manner in which the appeal has been decided besides the manipulated and distorted form in which the facts, and the derogatory nature in which the inferences / findings, have been recorded / presented in the Appellate Order.

3. That the notices of hearing have not been properly served.

None of the five (5) notices of hearing has come in the knowledge of the appellant I assessee, who is an agriculturist I farmer and is not a regular Income Tax assessee. Even a single notice has not been sent by post.

4. That the Ld. CIT(A) has failed to appreciate the facts of the case properly and fairly.

The several findings as recorded, observations as made and inferences as drawn, are erroneous, misconceived, untenable and even derogatory.

5. That the several replies filed by the assessee in compliance of show cause notices u/s 271(1)(c) before the AO and the relevant findings and material available in assessment records and the appellate order in quantum appeal, have been overlooked / ignored.

6. That the impugned penalty order is barred by limitation and is legally unsustainable, which be kindly quashed / cancelled. The findings and conclusion as drawn by Ld. CIT(A) in this regard are evasive and misleading in absence of mention of specific dates, it is unbelievable that the appellate order in quantum appeal dt.20-02-2018 of Ld. CIT(A) has not been communicated to the Ld. CIT, Meerut, even by the end of next month - i.e. 31-03-2018, but has been communicated after 31-03-2018 i.e. in next Financial Year.”

6. At the time of hearing, ld. AR of the assessee submitted the relevant facts on record and submitted that it is a joint account maintained by the assessee along with family members. The AO initially proposed addition of Rs.19,35,000/- and ld. CIT (A) has reduced the same considering the factual matrix on record and sustained the addition to the extent of peak credit. He further submitted that the similar addition was also made in the hands of the wife of the assessee and the same was allowed in favour

of assessee's wife. He prayed that the penalty imposed by the AO is not maintainable.

7. On the other hand, Id. DR of the Revenue relied on the findings of the lower authorities.
8. Considered the rival submissions and material available on record. We observe that the assessee maintained a joint account with his family members and during assessment proceedings, AO observed that assessee has made cash deposit of Rs.19,35,000/-, however initially he had the information about cash deposit of Rs.10 lakhs through information from AIR. Since the AO has collected information from bank, he came to the understanding that assessee has made cash deposit of Rs.19,35,000/-. However, Id. CIT (A) has analysed the facts of the case and sustained only the peak credit with the observation that the assessee has maintained only Rs.1 lakh in his bank account. Considering the fact that it is a joint account maintained by the family members, the AO should have verified the cash deposits made by the family members and he should have sustained the addition to the extent of sources of income declared by the assessee or to the extent of cash deposit made by the assessee. Rather he proceeded to make the addition/impose penalty only in the hands of the assessee alone. Therefore, there is no rationale for the AO to impose penalty only on the hands of the assessee without making proper enquiry.

It is also the fact on record that assessee has not received any notice for the proceedings, it is brought to our notice that communications were sent on wrong email id, therefore, the assessee was not able to receive the same. Considering the overall facts on record, in our considered view, the penalty imposed on the assessee is unjustified considering the fact that account maintained by the assessee is a joint account. Accordingly, the penalty imposed by the AO is deleted.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on this 8TH day of October, 2025.

**SD/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER**

**SD/-
(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**Dated: 08.10.2025
TS**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals).
5. DR: ITAT

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**