



**IN THE INCOME TAX APPELLATE TRIBUNAL  
VARANASI CIRCUIT BENCH, VARANASI**

**BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER  
AND SHRI NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA No.34/VNS/2024  
Assessment Year: 2017-18

Mohammad Isha B-18/52, Rewri Talab Varanasi (U.P)	v.	The Income Tax Officer Ward 2(2) Varanasi
TAN/PAN:AAQPI6457F		
(Appellant)		(Respondent)

Appellant by:	Shri Ashish Bansal, Advocate
Respondent by:	Smt Amandeep Kaur, D.R.

**ORDER**

**PER SUDHANSHU SRIVASTAVA, J.M.:**

This appeal has been preferred by the Assessee against the order dated 12.01.2024, passed by the National Faceless Appeal Centre, Delhi (NFAC) for Assessment Year 2017-18.

2.0 The brief facts of the case are that the assessee was engaged in the business of trading of Benarasi Sarees on wholesale basis in the name and style "M/s Tabassum Creation" at B-18/52, Rewri Talab, Varanasi. The assessee had not filed return of income for the year under consideration. The Income Tax Department was in possession of information that the assessee had made cash deposits during the year under consideration, totaling to Rs.2,50,07,105/- in his seven bank

accounts maintained with HDFC Bank and Oriental Bank of Commerce. The Assessing Officer (AO) issued statutory notices to the assessee, requiring the assessee to furnish the details of cash deposits in his bank accounts. However, the assessee did not respond to the notices issued by the AO. The AO, therefore, proceeded to complete the assessment on the basis of Best Judgment Assessment, after issuing show cause notice to the assessee. While completing the assessment under section 144 of the Act, the AO treated the cash deposits of Rs.2,50,07,105/- made by the assessee in his bank accounts during the year under consideration as his unexplained income and added the same to the total income of the assessee under section 69A of the Income Tax Act, 1961 (hereinafter called "the Act").

2.1 The Assessing Officer also invoked the provisions of section 115BBE of the Act and also initiated penalty proceedings under section 271AAC of the Act, separately.

2.2 Aggrieved, the assessee preferred an appeal before the NFAC, which dismissed the appeal of the assessee after rejecting the additional evidences filed by him before it.

2.3 Now, the assessee has approached this Tribunal challenging the orders of the AO as well as the NFAC by raising the following grounds of appeal:

1. BECAUSE the CIT(A) has erred in law as well as on facts in dismissing the appeal filed by the appellant solely on the ground that the appellant has filed additional evidences before him without accompanying the petition under Rule 46A of the Income Tax Rule, 1962, as also that no case is made out by the appellant under Rule 46A(1) of the Rules which could have been taken into consideration by him for the admission of additional evidence.

2. BECAUSE the appellant while filing the appeal in prescribed Form 35 of the Income Tax Rules, specifically mentioned in paras 12 & 12.1 thereof regarding filing of additional evidences in the form of "Cash Book, Ledger, Bank Book, Sales Invoices, Purchase Purza", the CIT(A) has erred in observing in the impugned order that the appellant has not made any request for admission of additional evidences, therefore, the same are not entertainable by the CIT(A) in the impugned order passed by him.

3. BECAUSE the CIT(A) has erred in law as on facts in dismissing the appeal filed by the appellant solely on the ground of violation of Rule 46A. without adjudicating the matter on merits, as no opportunity for the same was ever given by the CIT(A) before disposing the appeal against the appellant.

WITHOUT PREJUDICE TO THE AFORESAID

4. BECAUSE the overall the cash deposits in the bank account made by the appellant during the year, aggregating to Rs.2,50,07,105/- (including sum of Rs.38,00,000/- during demonetization period) were out of well-defined and duly disclosed and evident sources, the authorities below have

*erred in law as well as on facts in adding the entire deposits in the bank accounts during the year under consideration as unexplained money liable for taxation under section 69A read with section 115BBE of the Act.*

*5 BECAUSE the entire deposits in the bank accounts maintained by the appellant's either in his name or in the name of his proprietary concern namely, M/s. Tabassum Creation, were out of sell proceeds from his customers realized by the appellant from his saree business at Varanasi and Bhuj, the said deposits has been utilized towards payment to the karigars/weavers at regular intervals, for procuring stocks of sarees, in order to run his regular business during the year under consideration, no adverse view should have taken by either of the authorities below, after going through the bank accounts which was duly available on records of the authorities below.*

*6. BECAUSE the appellant was prevented from reasonable cause in appearing before the Id. Assessing Officer during the course of assessment proceedings, due to his prolong illness as also not well-versed with the intricacies of the Income Tax Laws, advantage to the same should not have been taken by the authorities below by taxing the entire deposits in the bank accounts maintained by him, by alleging the said deposits as unexplained money liable for taxation under section 69A r.w.s. 115BBE of the Act.*

*7. BECAUSE the overall profit derived by the appellant during the year out of his saree business thorough his proprietary concern namely M/s Tabassum Creation aggregated to Rs.4,95,917/-, the said profit was derived from the overall turnover of Rs.2,75,85,798/- which are duly*

*recorded in the books of account and other records maintained by the appellant. The authorities below have grievously erred in law as well as on facts in treating the entire deposits in the bank account as alleged unexplained money liable for the taxation under section 69A r.w.s. 115BBE of the Act.*

*8. BECAUSE entire transactions relating to purchase and sales made by the appellant towards his saree business is duly verifiable from the books of account and other records, the CIT(A) has erred in rejecting the appeal filed by the appellant on the technical ground without going into the merits of the case.*

*9. BECAUSE order appealed against, is contrary to facts, law and principles of natural justice.*

3.0 In this case, the assessee had moved an application dated 08.10.2025 for adjournment. However, during the course of hearing, the Ld. Authorized Representative for the assessee (Ld. A.R.) submitted that he wishes to withdraw the adjournment application and argue the case. Accordingly, we reject the adjournment application and proceed to adjudicate the appeal.

4.0 The Ld. A.R. submitted before us that the NFAC has rejected the additional evidences filed by the assessee before it and has arbitrarily upheld the addition of Rs.2,50,07,105/- in respect of deposits in the various Bank accounts, an addition which had been wrongly made by AO. The Ld. A.R. further submitted that the AO has not allowed adequate opportunity of

being heard to the assessee and passed the impugned assessment order under section 144 of the Act, without bringing on record any material in support of the addition which was made on the basis of presumption and surmises only. The Ld. A.R., therefore, prayed that in the interest of substantial justice, the matter may be restored to the file of the AO for deciding the same afresh after providing reasonable opportunity of being heard to the assessee. He submitted that the assessee undertakes to produce all the relevant documents in support of his claim before the AO, including the additional evidences filed before the NFAC.

5.0 The Ld. Sr. D.R. had no objection to the restoration of appeal to the file of the Assessing Officer.

6.0 We have heard both the parties and have also perused the material on record. Looking into the facts of this case, we are of the considered view that the assessee deserves one more opportunity to present his case and, therefore, we restore this file to the Office of the Assessing Officer with the direction to provide one more opportunity to the assessee to present his case and produce all the necessary evidences in support of the impugned bank deposits. We also caution the assessee to fully comply with the directions of the Assessing Officer in the set-aside

proceedings when called upon to do so, failing which, the Assessing Officer would be at complete liberty to pass the order in accordance with law, based on the material available on record even if it is ex-parte qua the assessee.

7.0 In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open Court on 10/10/2025.

Sd/-  
[NIKHIL CHOUDHARY]  
ACCOUNTANT MEMBER

Sd/-  
[SUDHANSHU SRIVASTAVA]  
JUDICIAL MEMBER

DATED:10/10/2025

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR

By order

Assistant Registrar/DDO