



**IN THE INCOME TAX APPELLATE TRIBUNAL  
SMC BENCH, ALLAHABAD**

**BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

ITA No.68/ALLD/2025  
Assessment Year: 2017-18

Hushn Jahan Palpur Raebareli Road Jagdishpur, Musfirkhana Amethi (U.P)	v.	The Income Tax Officer Amethi
TAN/PAN:AUTPJ9095P		
(Appellant)		(Respondent)

Appellant by:	Shri Shubham Singh, C.A.
Respondent by:	Shri A. K. Singh, D.R.

**ORDER**

This appeal has been preferred by the Assessee against the order dated 20.02.2024, 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 had not filed the return of income for the year under consideration. The Income Tax Department issued notice under section 142(1) of the Income Tax Act, 1961 (hereinafter called "the Act"), requiring the assessee to prepare a true and correct return of income for the year under consideration. However, the assessee neither filed any return of income nor furnished any reply in response to the said notice. The AO, therefore, obtained the bank deposit details of the assessee from the State Bank of India, Jagdishpur Branch,

Amethi under section 133(6) of the Act, as per which the assessee had made cash deposits of Rs.16,50,000/- in her bank account No.10468681040 during the period between 09.11.2016 and 31.12.2016. However, since the assessee failed to explain the source of cash deposits of Rs.16,50,000/-, the AO treated the same as the unexplained income of the assessee and added the same to the total income of the assessee under section 69A of the Act.

2.1 The assessee, vide letter dated 30.06.2019 had admitted before the AO that the assessee had a turnover of Rs.1,26,88,021/- during the year under consideration. The AO treated the total business receipts of the assessee as Rs.1,12,62,021/- [Rs.1,26,88,021.00 (turn over declared by the assessee) - Rs.16,50,000 (cash deposits made by the assessee)]. The AO also noted that the assessee might not have deposited some amount of sales made in cash and to cover up the revenue leakage, he enhanced the business receipts by 10% of Rs.1,12,62,021, which came to Rs.11,26,202/- and by applying rate of 8% for net profit on the total rounded off turnover of Rs.1,23,00,000/- (Rs.1,12,62,021 + Rs.11,26,202), calculated the income of the assessee from business at Rs.9,84,000/- and added the same also to the income of the assessee.

2.2 The AO completed the assessment under section 144 of the Act, assessing the total income of the assessee at Rs.26,34,000/-.

2.3 The AO also invoked the provisions of section 115BE of the Act and initiated penalty proceedings under sections 270A, 271AAC, 271B and 271F of the Act, separately.

2.4 Aggrieved, the Assessee preferred an appeal before the NFAC, which partly allowed the appeal of the assessee by sustaining the addition of Rs.16,50,000/- made under section 69A of the Act and deleted the addition of Rs.9,84,000/- made by the AO being the business income of the assessee.

2.5 Being further aggrieved, now the assessee has approached this Tribunal challenging the order of the NFAC, by raising the following grounds of appeal:

*(1) National Faceless Appeal Centre/CIT(A) has erred in and facts in upholding the ex-parte order as valid, even though same was not valid in law, owing to the reason that:*

*(i) Notice under section 142(1) should be issued by ld. Assessing officer as laid down under section 142(1)(i);*

*(ii) Such a notice under section 142(1)(i) was issued by ld. JCIT Range, Sultanpur who was not jurisdictional assessing officer;*

*(iii) Considering the above fact, initiation of proceeding was void ab initio and thus impugned assessment order*

*dated 31.10.2019 was not tenable and deserves to be quashed.*

*(2) Above mentioned ground is purely a legal ground and same is being raised before Hon'ble bench in view of the ration laid down by Hon'ble Supreme Court in case of National Thermal Power Co. Ltd Vs. CIT reported in (1998) 229 ITR 383;*

*(3) the Authorities below have erred in law and on facts in passing the assessment order dated 31.10.2019 under section 144 (ex-parte) and in sustaining the same [by NFAC/ld. CIT(A)] vide appellate order dated 20.02.2024 for the assessment year 2017-18;*

*(4) the appellant being a senior citizen (aged about 60 years) had been carrying on business operation with the help of her son Sri Babar and has been making statutory compliances solely on the advice given by Sri Inderjeet Sharma;*

*(5) the appellant herself was not a techno savvy person, and on the facts and circumstances of the instant case, the Id. Jt. CIT was not justified in making assessment under section 144 of the Act, as notices issued on e-portal (by the Id. Jt. CIT/Assessing Officer), could not be said to have been served on the appellant and such an ex-parte order could not have been sustained by the NFAC/Id. CIT(A);*

*(6) NFAC/ld. CIT(A) has erred in law and on facts in dismissing the appeal, on twin grounds, observing that the appellant*

*(a) did not submit documentary evidence(s), in support of source of total deposits made during the whole proceeding year in bank account amounting to Rs.16,50,000/-; and*

*(b) failed to file any books of accounts/ documents/ evidences to explain such transactions and substantiate that it pertains to business transactions.*

*(c) Income earned by the appellant is not offered for taxation purposes and taxes due thereon are not paid;*

*(7) the existence/legitimacy of business carried on by the appellant having been already established before the Id. Assessing Officer, the same could not have been disputed before the Id. First Appellate Authority and accordingly cash deposits in her bank account could not have been treated as unexplained investment under section 69 of the Act;*

*(8) Link between business receipts and cash deposited (in Bank Account) was established before Id. Assessing Officer by submitting:*

*(a) Computation of Income wherein appellant had offered income of Rs.10,15,042/- by computing the same under section 44AD, against the turnover of Rs.1,26,88,021/-;*

*(b) Such Turnover exceeded/covered the total credits in bank including cash deposit made during account, demonetization period, amounting to Rs.1,24,83,521/-;*

*(9) NFAC/Id. CIT (A) has erred in law and on facts in confirming the addition of Rs.16,50,000/- without*

*appreciating the fact that assessee was running a small business of trading in electrical items and addition confirmed by NFAC is contrary to the fact that NFAC had itself confirmed the action of Id. Assessing officer with respect to applicability of section 44AD, as not tenable and deleted the addition made by him over and above the turnover declared by appellant in its computation of income;*

*(10) Id. CIT(A)/NFAC has erred in confirming the addition of Rs.16,50,000/- without appreciating that the Id. Assessing Officer has erred in treating a part of the deposits as business income and the balance deposits made during demonetization as unexplained money u/s 69A;*

*(11) Id. CIT(A)/NFAC has erred in confirming the addition under section 69A ignoring the fact that the provisions of section 69A cannot be applied where no books of accounts were maintained;*

*(12) order appealed against is contrary to facts, law and principles of natural justice;*

3.0 In this case, the Department had moved an application for adjournment. However, during the course of hearing, on a query from the Bench, the Id. D.R. submitted that he wants to withdraw the adjournment application and argue the case. Hence, the adjournment application is being treated as withdrawn.

4.0 The Ld. Authorized Representative for the assessee (Ld. A.R.) submitted that there is a delay of 414 days in filing the appeal before the Tribunal. He further submitted that the assessee had filed an application for condonation of delay, duly supported by an Affidavit of the assessee, which were received by the Registry of this Bench on 09.04.2025. It was stated therein that the assessee was an illiterate senior citizen and was not well-versed with computer operations and, therefore, she was not aware about the passing of the impugned order dated 20.02.2024 of the Ld. First Appellate Authority. It was further submitted that it was only when the Inspector of the Department had come for a survey that she had come to know about the passing of the impugned order and that in view of these facts, the assessee could not file the appeal before the Tribunal within the prescribed time limit. The Ld. A.R. prayed that the delay be kindly condoned and the appeal be heard on merits.

5.0 The Ld. Sr. D.R. submitted that the reasons given by the assessee for not filing the appeal before the Tribunal within the time limit are not sufficient for condoning the delay in filing the appeal. The Ld. Sr. D.R. objected to the delay being condoned.

6.0 In view of the prayer made by the Ld. A.R., I condone the delay in filing of the appeal and admit the appeal for hearing.

7.0 The Ld. A.R. submitted before me that the NFAC has passed an order ex-parte qua the assessee, arbitrarily upholding the addition of Rs.16,50,000/- in respect of cash deposits made in the Bank account, which has 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 has 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 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 her claim before the AO.

8.0 The Ld. Sr. D.R. objected to the restoration of appeal to the file of the Assessing Officer.

9.0 I have heard both the parties and have also perused the material on record. Looking into the facts of this case, I am of the considered view that the assessee deserves one more opportunity to present her case and, therefore, I restore this file to the Office of the Assessing Officer with the direction to provide one more

opportunity to the assessee to present her case and produce the necessary evidences in support of the impugned bank deposits. I 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.

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

Order pronounced in the open Court on 21/11/2025.

Sd/-  
[SUDHANSHU SRIVASTAVA]  
JUDICIAL MEMBER

DATED:21/11/2025

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

By order

Assistant Registrar/DDO